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Abstract

Historians have long recognized that one of the major themes in the reign of Charles II of England (1660-1685) was his conflict with various bodies which fall under the common heading of chartered corporations. The reign appears bookended by two attempts at corporate regulation. At the Restoration, Charles and the Cavalier Parliament passed An Act for the Well-Governing and Regulating of Corporations designed to rein in England's roughly 200 corporate municipalities. At the same time, the crown sought to regulate English overseas corporations like the Massachusetts Bay Company, and to develop a new imperial political economic model focused on joint stocks. Yet most scholarship on corporations during the reign of Charles II has focused on the final dramatic years of his reign, the "Tory Reaction" (1681-1685) during which he seized the charter of the City of London and issued new charters for dozens of English municipal corporations, seized the charters of overseas plantation corporations like the Massachusetts Bay and Somers Island Companies, and brought the crown into close alliance with major joint stock trading companies like the East India and Royal African Companies. This dissertation asks why Charles sought to regulate corporations during his reign; why the problem of corporate regulation proved so intractable and recurrent; why the two attempts at regulation produced such dissimilar results; why some corporations embraced corporate regulation while others opposed it; and how, if at all, efforts at corporate regulation across these three disparate contexts – municipalities, colonies, companies – were connected.

Existing accounts of corporate-state relations during the reign of Charles II fragment this historiography into discrete fields in which different forces explain corporate regulation. The dominant narratives on municipal corporations in the 17th century have been shaped by revisionism, with its emphasis on examining the borough community in isolation from the national state. These narratives suggest that the controversies surrounding municipal corporations

were largely driven by local actors for local reasons – corporate regulation did not have royal origins, and it was only "national" to the extent that it represented a composite of local efforts. In contrast, the dominant frameworks for understanding corporate-state relations overseas posit a tension between an expanding royal national-state and overseas private corporations. Here, corporate regulation was driven by Charles's desire to extend the reach of royal sovereignty at the expense of so-called "company-states." Such is the current state of the historiography on corporate-crown relations in the reign of Charles II that its division into different geographies has produced wholly incompatible views of Charles's statecraft and of the causes of corporate regulation.

This dissertation breaks with the current paradigms in two primary ways. First, it marks the first attempt to study early modern English corporations in England and the empire simultaneously, rather than confining itself exclusively to either the metropolitan or overseas contexts. This decision is justified by commonalities emerging from their shared institutional foundation, such as a corporate political culture and the nature of their legal relationship to the monarch. Doing so helps us to understand the broad trends of Charles II's evolving relationship with corporations writ large while highlighting the differences between the different types. It also allows us to gain a more comprehensive picture of Charles II's statecraft by taking in a wider range of the king's dominions than has heretofore been studied at once, in the process illuminating a broader pattern of royal government that spanned empire and metropole alike.

This dissertation also differs from today's dominant narratives of corporate-state relations in the reign of Charles II by placing national politics and political ideology at the center of the story. Revisionist interpretations of municipal politics tend to view local politics independently of events in the capital, and so to downplay the salience of national political divisions in

provincial boroughs. “Company-State” histories of empire tend to figure clashes between corporation and monarch as essentially conflicts over sovereignty in the abstract. This dissertation integrates corporations of all three types into the broader national political history of the reign, showing how debates over national issues like the legacy of the civil wars, the terms of the Restoration, the place of nonconformists within society, the royal succession, and royal financing influenced corporate officeholders’ behavior as well as government efforts to regulate them. This decision to bring politics back into the history of corporations is justified by the nature of early modern corporate authority and by the post-revisionist emphasis on the public sphere. Corporate officeholders derived their power from a royal charter which obligated them to promote “good government,” and the power they wielded was essentially state power. Yet their understandings of “good government” were not limited to their immediate environs and were informed by national (and indeed imperial) discourse within the public sphere.

I argue that corporate regulation was a major priority for the government of Charles II because corporations served as semi-autonomous vehicles for corporate officeholders to express their political ideologies, a feature that became a problem at moments of national political transformation or crisis. Disagreements over the nature of “good government” – of the local corporation and of the nation as a whole – served as a major engine for disputes over corporate power among corporators and between corporators and the king. These policy disagreements, when pushed to their extreme, could transform into more abstract debates over royal sovereignty vis-à-vis corporations, but their origins must be sought in the relatively more mundane realm of Restoration political disagreement. In short, this dissertation aims to provide a history of corporate-state relations during the reign of Charles II that is both politically integrated and geographically capacious. Methodologically, this study is primarily shaped by a mixture of

political, legal, and intellectual history, although social history, imperial history, and the history of political culture also influence the argument. The evidence on which this research is based is diffuse. In addition to a healthy engagement with printed pamphlets, broadsheets, poems, music, and satires, this work draws upon a vast collection of manuscripts that shed light on both central policy making and local political conflict. The former includes collections like the State Papers at the National Archives of the United Kingdom or printed transcripts of state trials that are primarily useful for illustrating the formation of corporate policy in Whitehall and Westminster. The latter includes archives that shed light on decision-making and politics within corporations, such as the London Archives, Massachusetts State Archives, Massachusetts Historical Society, India Office Records, and various county archives throughout England. Taken together, these sources and methods enable me to describe the interaction between corporate law and politics in the reign of Charles II in a way that productively integrates central and local history.

My work makes contributions to the historiography of later Stuart politics, imperial history, and the history of corporations. In the realm of later Stuart politics, this dissertation provides a more comprehensive picture of Charles II's statecraft by attempting to make sense of it across a broader range of spaces. Attempting to reconcile Charles's imperial policy with his domestic policy suggests that the "Merry Monarch" was a far more sophisticated political actor than revisionist histories of England have generally recognized. My focus on the salience of national politics in the provincial boroughs likewise informs our understanding of the later Stuart period by demonstrating the national political consciousness of provincial actors. In the realm of imperial history, this dissertation demonstrates the importance of integrating the history of empire and the history of England into a common framework. It shows that it is impossible to understand the evolution of the imperial constitution independent of metropolitan political

events, and it emphasizes the extent to which colonists and overseas merchants reacted to and influenced those events. For the history of corporations, this work contributes to modern debates about corporate purpose by shedding light on a very different early modern ideal of corporations that understood them as vehicles for promoting "good government" and corporate officeholders as public officials. It also serves as a reminder that the modern public-private dichotomy that pits states and corporations against each other is a 19th century invention, and that the origins of both institutions are intertwined.

For Shanna, who told me to go for it.

And for little Gilligan: Welcome!

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Corporations, Politics, and the State in Restoration England and its Empire

The reign of King Charles II of England appears to us today as in a distant mirror.[1] Recognizable features of modern life – commercialism, religious conflict, imperialism, and constitutional disputes, among others – are visible but distorted in its surface, reminding us simultaneously of its familiarity and its foreignness. Charles's reign began on May 29, 1660, with his triumphal procession into London after 11 years of exile following a bloody civil war, the execution of his father, and the establishment of an English republic. The conflict over the monarch's role within the English constitution was not quieted by the Restoration, and the politics of Charles's reign would consist in large part of attempts to manage the political, religious, and social conflicts that had sent the young king on his travels. These immediate concerns played out against the backdrop of longer-term transformations in English and European society. The Reformation had wrested apart the religious fabric of Europe, undermining spiritual authority and helping to fuel religious and political conflict within and between Europe's polities. The 16th and 17th centuries featured sustained urbanization, as climatological, demographic, and economic transformations altered the economic prospects for peasant farmers and drove families into England's cities and towns. These centuries likewise witnessed England's overseas commercial and colonial expansion, initially in Ireland and latterly in West Africa, the East Indies, the Caribbean, and the Americas. Imperial expansion fueled war abroad with Indigenous peoples and competing European empires, which placed additional economic demands on the Restoration state. It also contributed to the commercialization of English society, importing new commodities and transforming tastes, while at the same time bringing in massive revenues that altered the relationship between the Stuart monarchs and

[1] The phrase is Barbara W. Tuchman's: *A Distant Mirror: The Calamitous 14th Century* (New York: Ballantine Books, 1978).

parliament. Understanding the reign of Charles II requires coming to terms with a world that was quintessentially early modern, a world dominated by unfamiliar variants of superficially familiar issues.

Yet some aspects of later Stuart society and politics appear more relatable to us moderns. Charles II's era, like our own, was a time of great question about the corporation. Today the corporation and the state form the two institutional pillars of modernity, the private and the public poles around which life revolves. The relationship between the two is a subject of constant discourse – from debates over corporate purpose and Environmental, Social, and Governance standards, to concerns about the growing power of corporations to shape private and public life, to critiques of democracy and government inefficiency and calls to transform the state into "a heavily-armed, ultra profitable corporation."[2] At first sight, Restoration England appears to evince similar conflicts. Yet this nominal similitude must immediately be qualified. Our modern understanding of corporations is a product of the 19th century, especially the landmark SCOTUS ruling in *Dartmouth College v. Woodward* which likened corporations to contracts between private persons and the government. For Chief Justice John Marshall, these contracts recognized public benefits from incorporation but did not alter the underlying private nature of the

[2] For a discussion of corporate power to influence public and private life, see Elizabeth S. Anderson, *Private Government: How Employers Rule Our Lives (and why we don't talk about it)*, (Princeton: Princeton University Press, 2017); *Citizens United v. Federal Election Commission* (558 U.S. 310); and *Burwell v. Hobby Lobby Stores, Inc.* (573 U.S. 682). The vastness of corporate power has inspired a renaissance of the debate on corporate purpose that is voluminous and ongoing. For a historical discussion, see Elizabeth Pollman, "The History and Revival of the Corporate Purpose Clause" *Texas Law Review* 99 (2021): 1423-1452. The quote about transforming the state comes from Curtis Yarvin, a eugenicist, monarchist, and self-described "Jacobite." Yarvin is a prominent intellectual of the American right, where he has influenced the thinking of tech billionaires like Peter Thiel and Marc Andreesen and reactionary figures in government such as Michael Anton and JD Vance. See Mencius Moldbug [Curtis Yarvin], "An Open Letter to Open-Minded Progressives, Chapter VI: The Lost Theory of Government," *Unqualified Reservations* (blog), May 22, 2008, https://www.unqualified-reservations.org/2008/05/ol6-lost-theory-of-government/; Mencius Moldbug [Curtis Yarvin], "An Open Letter to Open-Minded Progressives, Chapter XI: The Truth about Left and Right," *Unqualified Reservations* (blog), June 26, 2008, https://www.unqualified-reservations.org/2008/06/olxi-truth-about-left-and-right/. For Yarvin, see Ava Kofman, "Curtis Yarvin's Plot Against America," *The New Yorker*, June 2, 2025.

institution. Incorporation, Marshall wrote, did not grant sovereigns or legislatures power to change "the character of the institution, or transfer… to the government any new power over it."[3] This, in broad strokes, is the view of corporations that exists today: corporations are private bodies, serving their trustees (or shareholders) rather than the public at large, who wield powers and rights that must be protected from the "public" power of sovereign rulers and legislatures. Yet such a stark public-private division is entirely inappropriate for Restoration England. Corporations in the 17th century were groups of subjects possessing a royal charter which endowed them with a legally-recognized group identity and entitled them to govern some people, region or trade. This institutional form enveloped a wider range of organizations and functions than we tend to associate with corporations today: it included precursors of modern multinational business concerns, like the East India Company, but also towns, guilds, colleges, and plantations. Many of these bodies were concerned with promoting commerce, but this obligation was never imagined in private terms, and in few cases were corporate responsibilities limited to commerce alone. Towns were the central nodes in England's commercial networks, and their Common Councils were responsible both for managing markets and for distributing social welfare, enforcing public morality, and administering local justice. Even the East India Company, on the one hand so clearly a trading concern, was also involved in government: the EIC fielded soldiers, administered justice in its plantations, conducted diplomacy, and regulated the conduct of its employees. Corporations, like so much else about early modern England, are less familiar than they at first appear.

[3] Joseph P. Cotton, Ed., *Constitutional Decisions of John Marshall* (New York: G.P. Putnam's Sons, 1905), I: 365. For background on the case and an analysis of Marshall's misunderstanding of both the facts and the nature of chartered corporations in British law, see Adam R. Nelson, *Dartmouth College v. Woodward: Colleges, Corporations, and the Common Good* (Lawrence, KS: University Press of Kansas, 2025), especially 161-176.

As we struggle to comprehend the relationship between these two defining institutions of modernity, we are tempted to turn our eyes back to earlier epochs for solutions. On closer inspection the controversies between the Restoration state and its corporations fail to satisfy our craving for answers, as the foreign understandings of both institutions render them unable to map neatly onto modern corporate-state dynamics. Yet this need not be a cause for despair. By examining a time when the relationship between corporation and state was not antithetical but symbiotic, I suggest that we can approach modern disputes about corporate purpose in a new light. The history of corporate-state relations in the reign of Charles II invites us to question the inevitability of the modern public-private dichotomy, injecting new life into debates about the nature of the state, the nature of the corporation, and the essence of their relationship. History rarely offers easy answers to modern questions; differences of place and time produce unfamiliar circumstances that frequently render a straightforward application of past solutions untenable. Yet history can help us to escape modern paradigms, exploding familiar categories and enabling us to approach our issues unfettered by modern assumptions. It is in that spirit that we turn now to a history of corporate-state relations in the reign of Charles II.

Charles's reign was bookended by two major efforts to regulate corporations and subordinate them to royal authority: one in the 1660s, the other in the 1680s. Why was corporate regulation such a priority for Charles II's government? Why did the efforts at corporate regulation in the 1660s fail, such that renewed attempts at regulation were required in the 1680s? What factors influenced corporators' responses to these efforts at regulation – why did some resist, others comply, and still others actively invite them? And how, if at all, were the metropolitan and imperial efforts at corporate regulation related?

This last question has been the least well-served by the existing historiography. Although historians of England and historians of the empire have both highlighted the importance of corporate regulation in the reign of Charles II, traditional disciplinary siloing has divided this historiography into metropolitan and imperial spheres. Within these spheres, different understandings of the relationship between corporations and the English state have produced conflicting accounts of the dynamics of regulation. Historians of the metropole have long been interested in Charles II's conflicts with England's roughly 200 municipal corporations, where they have understood them as quarrels over state power. Traditional "Whig" histories, influenced by Thomas Babington Macaulay and George Macaulay Trevelyan, saw the merry monarch's efforts at corporate regulation as a "generally unpopular" "extension of the royal prerogative at the expense of ancient and cherished… rights of municipal self-government." The goal of this extension was packing parliament – the primary significance of the municipalities, according to this historiography, was their ability to influence national government by acting as constituencies for the House of Commons. In these narratives the story of corporate regulation was the story of an aggressive, absolutist monarch campaigning against corporations as part of a campaign to assert royal authority within the English constitution.[4] With the rise of revisionism in the 1970s and '80s, historians turned from Westminster to the municipalities, leading them to emphasize the importance of local dynamics to the struggle to regulate corporations during the reign of Charles II.[5] Indeed, today the dominant narratives of municipal regulation during the Restoration

[4] J.H. Sacret, "The Restoration Government and Municipal Corporations," *The English Historical Review* 45 no 178 (April 1930), 232; George Macaulay Trevelyan, *England Under the Stuarts*, 13th ed. (London: Methuen & Co. LTD, 1926), 424. See also Jennifer Levin, *The Charter Controversy in the City of London, 1660-1688, and its Consequences* (London: The Athlone Press, 1969), 2-7. Robert Pickavance offers a qualified version of this traditional narrative: Robert Pickavance, "The English Boroughs and the King's Government: A Study of the Tory Reaction, 1681-85" (PhD Diss, Oxford University, 1977), v, 109-110, 138-139, 186-188, ch. 3 ("Policy-making"), 216-7. For a discussion of the ways that Pickavance challenged the traditional narratives, see chapter 2.

[5] Although revisionism grew out of existing historiographic currents which emphasized provincialism and downplayed the significance of ideology, the revisionist turn can perhaps be dated to the publication of JS Morrill's

tend to emphasize the passivity of the crown and the dynamism of the localities. According to John Miller, Charles II was "unwilling to put in the effort required to retain an overall grasp of the business of government" meaning that "the initiative for the surrenders of old charters, and the granting of new… came from the local Tories."[6] Paul D. Halliday, undoubtedly the most influential modern historian of Restoration towns, agrees that "crown passivity" was the rule until the very end of the reign, noting that through 1683 "local initiative was… the greater part of the rechartering story."[7] These scholars argue that the local partisans who sought new charters for their municipalities were largely motivated by municipal dynamics, rivalries, and issues – their political horizons and aspirations for reform were defined in local terms, and national partisan labels meant very little to them. As a result, these histories reject features of traditional "national" histories like ideology and discussion of parliament in favor of a focus on the local community.[8] Yet like their forebears, revisionist historians of the municipalities tend to understand municipal corporations as part of the state, even as they shift the focus of that state from crown and parliament to town. Thus, Halliday writes, "the corporation was not an independent being within the state; it was a crucial organ of the state, beholden to the King for its life, and subservient to his needs."[9] The current prevailing argument in the historiography on English municipalities is that corporate regulation during the reign of Charles II was the product of local partisans seeking local ends ultimately prodding a passive crown into action.

The Revolt of the Provinces: Conservatives and Radicals in the English Civil War, 1630-1650 (London: George Allen & Unwin, LTD, 1976).

[6] John Miller, "The Potential for 'Absolutism' in Later Stuart England" *History* 69, no. 226 (1984) 195-197; John Miller, "The Crown and the Borough Charters in the Reign of Charles II" *The English Historical Review* 100, no. 394 (Jan 1985), 56, 74, 79-82; John Miller, *Cities Divided: Politics and Religion in English Provincial Towns, 1660-1722* (Oxford: OUP, 2007), 182. See also Colin Lee, "'Fanatic Magistrates': Religious and Political Conflict in Three Kent Boroughs, 1680-1684" *The Historical Journal* 35, no. 1 (Mar. 1992), 59.

[7] Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: CUP, 1998), xii-xiv, 108, 117-8, 124, 145, 177, 187-8, 192, 195-6, 212.

[8] Halliday, *Dismembering the Body Politic*, xii, 5-11, 22-24.

[9] Halliday, *Dismembering the Body Politic*, 33.

Popular and academic histories of overseas corporations have advanced a radically different understanding of the nature of corporate-state relations in this period, based in a very different understanding of the nature of the early modern corporation.[10] These scholars begin with the premise that the various prerogatives we now associate with "sovereignty" – rule, governing, diplomacy, and others – only recently became the exclusive purview of states. Sovereignty itself was imagined as divisible rather than unitary, and was exercised by a host of actors beyond the "national state."[11] For these scholars, the most influential of whom is certainly Philip J. Stern, overseas corporations ought to be conceived of as non-state actors – as essentially private bodies, albeit ones wielding tremendous sovereign prerogatives. Stern has developed two concepts – "the company-state" and "venture colonialism" – to describe the ways that these non-state actors exercised sovereignty and shaped the contours of the Anglo-British Empire. Stern's early work focused on the English East India Company before the Battle of Plassey and argued that it was best understood "not as a commercial body or an arm of the Anglo-British state but as an independent form of polity and political community," a "company-state" with its own political and intellectual history. The EIC performed many of the functions we associate today with sovereign states – they conducted diplomacy, made law, erected courts, planted colonies, and

[10] This discussion that follows focuses on the most influential academic histories. For some popular histories that focus on overseas corporations in the British Empire, see John Keay, *The Honorable Company: A History of the East India Company* (London: HarperCollins, 1991); Nick Robbins, *The Corporation that Changed the World: How the East India Company shaped the Modern Multinational* (Ann Arbor, MI: Pluto Press, 2006); William Dalrymple, *The Anarchy: The Relentless Rise of the East India Company* (London: Bloomsbury, 2019); Peter C. Newman, *Empire of the Bay: The Company of Adventurers that Seized a Continent* (New York: Penguin, 1998); Stephen R. Brown, *The Company: The Rise and Fall of the Hudson's Bay Empire* (Toronto: Anchor Canada, 2021).

[11] Philip J. Stern, *The Company-State: Corporate Sovereignty & the Early Foundations of the British Empire in India* (Oxford: OUP, 2011), 9-10; Philip J. Stern, "'Bundles of Hyphens': Corporations as Legal Communities in the Early Modern British Empire" in Lauren Benton and Richard J. Ross, Eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 21-48; Andrew Phillips and J.C. Sharman, *Outsourcing Empire: How Company-States Made the Modern World* (Princeton: Princeton University Press, 2020), 1-2.

issued currency.[12] While the EIC and other "company-states" were the "dominant species" in early modern private imperialism, they were not exceptional. "Venture Colonialism," the other concept animating Stern's scholarship, provides a way of talking generally about this phenomenon, "a brand of overseas expansion bound… by the conviction that the public business of empire was… best done by private enterprise."[13] The early modern Anglo-British Empire, Stern writes, "was… founded and often administered by corporations, companies and proprietors… on multiple contrasting ideological, religious, political, and legal foundations." It was acquired and developed "in the absence of an 'official mind' exclusively centered on the state," shaped "by investors and idealists, creditors and convicts, peers and parvenus, pirates and poets, lawyers and landowners, entrepreneurs and embezzlers." For this reason, he concludes, "this was an English empire that was not clearly and at all times governed by or from England."[14] Stern's scholarship has been influential among historians and political scientists. After the EIC, the most studied "company-state" in the British Empire has probably been the Hudson's Bay Company, a body which the legal historian Edward Cavanagh has classed among those "company-states" capable of "embodying a sovereignty of their own" and acting as "imperial actors and *bona fide* states themselves."[15] The political scientists Andrew Phillips and JC Sharman, in their comparative history of company-states, have suggested that "European

[12] Philip J. Stern, "'A Politie of Civill and Military Power': Political Thought and the Late Seventeenth-Century Foundations of the East India Company-State" *Journal of British Studies* 47 (April 2008): 257; Stern, *The Company-State*, vii-viii, 6, 10.
[13] Philip J. Stern, *Empire, Incorporated: The Corporations that Built British Colonialism* (Cambridge, MA: Belknap Press of Harvard University Press, 2023), 1.
[14] Stern, *The Company-State*, 10; Stern, *Empire, Incorporated*, 1, 9-12. Priya Satia has recently pointed to an interesting slippage here – who exactly were "England" or "Britain" "if not the 'broad constituencies' of stakeholders in corporate colonialism that Stern names"? Priya Satia, "The Scholarly Business of Corporations and Slavery: Political Fault Lines of the Economic History of Empire," *Journal of British Studies* 64, e8 (2025): 4.
[15] Edward Cavanagh, "A Company with Sovereignty and Subjects of Its Own? The Case of the Hudson's Bay Company, 1670-1763" *Canadian Journal of Law and Society/Revue Canadienne Droit et Société* 26, no. 1 (2011): 26-27.

states largely stood aloof from the initial wave of western expansion that first made it possible to think of politics, economics, and many other forms of interaction as occurring on a global scale." This "first age of globalization" was spurred on by "company-states," bodies "answerable to private individuals" "endowed with fundamental sovereign prerogatives, most notably the authority to wage war and make peace, while also being companies devoted to making profit through trade."[16] For Phillips and Sharman, as for Stern and Cavanagh, the essence of the company-state was that it placed powers we now think of as quintessentially "public" into "private" hands.

Historians of company-states explain attempts at corporate regulation, like those during the reign of Charles II, as part of a centuries-long conflict over sovereignty between states and various alternative forms of political community exercising sovereign power. The reign of Charles II was not unusual in evincing "a sustained attempt at a state takeover of corporate chartered enterprises." Indeed, the British empire was ultimately built on just such attempts by "the state" to "absorb[…] and assimilat[e] those corporations and other forms of non-state enterprise that often laid the foundation of the colonial enterprise."[17] Charles's attempts were one early chapter in "the inexorable rise of the modern nation-state and its expanding empire" which struck down company-states and other "forms of fragmented power" over the course of centuries as a way of advancing the doctrine of unitary state sovereignty.[18] "Aggrandizing and increasingly powerful European states" in the 18th and 19th centuries gradually dispensed with and delegitimized their rivals for sovereignty and asserted their own unitary supremacy over their

[16] Phillips and Sharman, *Outsourcing Empire*, 1, 5-9.
[17] Stern, *Empire, Incorporated*, 112-5, 10. For the difference between the crown's view and that of England's corporations in this period, see Stern's discussion of *EIC v Sandys*: Stern, *The Company-State*, 46-60, esp 57-58.
[18] Stern, "A Politie of Civill & Military Power," 283.

foes.[19] Charles II's ambitions reflected the impotent frustration of a monarch eager to replace England's "interlocking matrix of commonwealths, churches, associations, communities, officeholders, agencies, and families" involved in government with a clear hierarchy helmed by himself.[20] In essence, histories of overseas corporations envision the conflict between "states" and "company-states" as a battle over sovereignty, with company-states standing for the proposition that governing responsibility was shared between the state and various private communities, and the states attempting to proclaim their unitary authority.

These historiographies offer strikingly different interpretations of the behavior of the Restoration government, the motivation for its conflict with corporations, and nature of the corporation itself. For the prevailing revisionist interpretation of corporate-crown relations in England's towns, Charles II was a passive king uninterested in government who was prodded to extend his control over part of the English state by townsmen eager to get a leg up on their local rivals. For historians of "company-states," Charles II was an aggressive and expansionistic monarch eager to establish his sovereignty at the expense of private bodies outside the state. In short, these histories offer incompatible accounts of the nature of corporate-state relations in the Restoration period. If we want to push beyond these existing historiographies and begin to offer a unifying history of corporate-crown relations across England and its empire, we first need to challenge two of the assumptions on which the existing historiographies are based. The first, the critical assumption of the "company-state" literature, is about the nature of the early modern English "national" state; the second, underlying the revisionist municipal literature, has to do with the nature and content of early modern English politics.

[19] Phillips and Sharman, *Outsourcing Empire*, 13, 136-152; Stern, *Empire, Incorporated*, 301-318, *passim*.
[20] Stern, *The Company-State*, 9.

The literature on overseas "company-states" defines them as bodies outside of the Anglo-British "national state." They were, according to Stern, "political communities in their own rights" possessed of their own "intellectual and political histories" that cannot be "tethered to supposedly broader national histories, nor [seen] as an imitation, extension, or reflection of the national state."[21] Yet such a definition begs the question about just what the early modern national state was. These histories frequently distinguish the company from "rulers" or "monarchs," but rarely offer a precise definition. A handful of brief allusions in this literature allow us to get some idea of what historians of company-states imagine those bodies in opposition to. Phillips and Sharman suggest that "well into the late medieval period, there *was* no state to speak of in Europe. Kings had few powers of direct rule within the territories they claimed" and "bureaucracies remained rudimentary at best" due to "the dearth of literate administrators."[22] Stern implies a similar understanding when he contrasts the "corporate empire" acquired by private "venture colonialism" with "the British Empire proper – that is, one governed directly by the Crown, Parliament, and its agencies and bureaucracies."[23] Together, these negative definitions suggest that scholars employing the "company-state" framework understand the state in broadly Weberian terms, as a bureaucratic polity exercising the monopoly of legitimate force within a given territory.[24] On this definition, the early modern English state was exceptionally weak – in the 17th century, when the bureaucracy was centered on the crown, "the royal court typically employed a mere 1200 people" at any given time.[25] It is this

[21] Stern, *The Company-State*, viii, 6; Stern, "A Politie of Civill & Military Power," 255, 283.
[22] Phillips and Sharman, *Outsourcing Empire*, 27. Italics original.
[23] Stern, *Empire, Incorporated*, 10.
[24] Max Weber, "Politics as a Vocation" and "Bureaucracy" in *From Max Weber: Essays in Sociology*, H.H. Gerth and C. Wright Mills, trans. Eds. (New York: Oxford University Press, 1946), 77-129, 196-240.
[25] Mark Goldie, "The Unacknowledged Republic: Officeholding in Early Modern England" in Tim Harris, Ed., *The Politics of the Excluded* (New York: Palgrave, 2001), 154.

understanding of the state that animates "company-state" historiography – sovereign prerogatives were granted to private subjects as a concession to the flimsiness of royal power.

Such a view is based on a misreading of the literature on the English state that has become increasingly dominant since the 1980s.[26] This literature, an outgrowth of the revisionist emphasis on locality over nation, has led to the discovery of an important "republican" strain in early modern English governance, undermining definitions of the state which understand it primarily as a centralized bureaucracy. Elizabeth I presided over a "monarchical republic," quipped Patrick Collinson, one in which "self-government at the king's command" was the rule.[27] Consequently, "the political and administrative infrastructure of society" depended on "the active and indispensable involvement… of thousands of ordinary householders and proprietors."[28] The crux of this system was local officeholding, which was both socially and quantitatively broad in the early modern period and reliant upon an ethic of public service. As many as 1 in 20 adult men might hold office annually around 1700, Mark Goldie has calculated. Still more participated in their local vestry, moot, or other assembly, contributing to the commonwealth and public service as a duty becoming all citizens. For this reason, Goldie argues, sharply delineating between state and subject is inappropriate. It is inapposite, he writes, to view "early modern England as a bipolar society of rulers and ruled… Governance was not something done from on high to the passive recipients of authority, but something actively engaged in by the lesser agents of

[26] Stern cites much of the literature I explore below when he describes early modern England as "not so much a clear hierarchy as an interlocking matrix of commonwealths, churches, associations communities, officeholders, agencies, and families" but he understands that matrix of local governments as separate from, rather than constitutive of, the state. Stern, *The Company-State*, 9, 221n35.
[27] Patrick Collinson, "The Monarchical Republic of Queen Elizabeth I" in *Elizabethan Essays* (London: The Hambledon Press, 1994), 32-33. "Self-government at the King's Command" is the phrase of Albert Beebe White. *Self-Government at the King's Command: A Study in the Beginnings of English Democracy* (London: Oxford University Press, 1933).
[28] Patrick Collinson, "*De Republica Anglorum*: Or, History with the Politics Put Back" in *Elizabethan Essays*, 12.

government; and every citizen was in some measure a lesser agent of government."[29] These lesser agents, "the constables, church-wardens, and overseers of the poor in nine thousand parishes" were, Collinson argues, "the bottom line of early modern government."[30] This focus on the role of officeholders in governance has led several historians to redefine the early modern state, moving away from a hierarchical understanding culminating in a royal bureaucracy towards a more dispersed structure characterized by negotiation, delegation, and compromise. As a percentage of the population, this state was extraordinarily large; yet it was weakly coordinated and low to the ground. "Local officeholders," argued Michael J. Braddick exercised "political power," a form of social power resident in offices as opposed to persons, territorially and functionally bounded, and backed by the threat of legitimate force. "Collectively, these offices constituted a 'state,' in the sense that they were part of a territorially bounded… network… legitimated with reference to, and coordinated by, a single center."[31] Steve Hindle offers a similarly expansive understanding of the state when he observes that "Court, Privy Council, and Parliament were only the highest institutional expressions of state authority." "Those individual officers who exercised public authority in parish and township… were representatives of the state."[32] As these scholars have shown, in early modern England central and local authority were mutually reinforcing and symbiotic. Monarchs relied on local officeholders to govern the realm; the authority of local officeholders was in turn bolstered by their status as delegates under the crown. The symbiosis meant that, paradoxically, "the growth of the Tudor and Stuart state, of court and royal power… enhanced the role of the locality, because extra burdens of legislation

[29] Goldie, "The Unacknowledged Republic," 155, 161.
[30] Collinson, "*De Republica Anglorum*" 25.
[31] Michael J. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge: Cambridge University Press, 2000), 17-19.
[32] Steve Hindle, *The State and Social Change in Early Modern England, c. 1550-1640* (New York: Palgrave, 2001), 15-36, 232, quote on 21.

and administration fell upon local elites and officeholders."[33] Contemporaries did not understand the widespread practice of local officeholding as a concession to the weakness of royal government; instead, they saw it as the means by which the monarch joined with the localities to govern – an act which simultaneously recognized the community's capacity for self-government and reinscribed the sovereign's ultimate authority over them. The householders of early modern England were both subjects and citizens, both under the state and a part of it.

Nowhere was this duality more evident than in England's corporate municipalities. There, the "republican" strain in England's political culture was at its apex, as the responsibilities of local officeholders proliferated to manage a host of urban institutions – courts, markets, guilds, and others. This proliferation shaped a political culture of urban "civility," of a self-conscious city community that recognized itself as unified and capable of self-government.[34] Every city and town was a "body politic," a "commonwealth among themselves" in which citizens and freemen assembled "that they might in all things live the more commodiously together."[35] The Interregnum Serjeant-at-Law William Sheppard listed corporations among 'the best of polities" because they brought men together "by mutual consent" to exercise their reason, "support the common charge… and to live under such laws as they shall agree upon… to be governed by [and] for their mutual good, and advantage."[36] Yet these civic commonwealths were not

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[33] Goldie, "Unacknowledged Republic," 176; Collinson, "*De Republica Anglorum*," 13; Hindle, *The State and Social Change*, 13.
[34] Phil Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge: Cambridge University Press, 2005), 3-15, *passim*; Robert Tittler, *The Reformation and the Towns in England: Politics and Political Culture, c.1540-1640* (Oxford: Clarendon Press, 1998), 245-334; Halliday, *Dismembering the Body Politic*, 18-24, 29-55; Catherine F. Patterson, *Urban Government and the Early Stuart State: Provincial Towns, Corporate Liberties, and Royal Authority in England, 1603-1640* (Woodbridge: Boydell, 2022), 1-49, 78-111.
[35] Thomas Wilson, *The State of England, anno. Dom. 1600*, F.J. Fisher, Ed. (London: The Camden Society, 1936), 20; Henry Manship, *The History of Great Yarmouth*, Charles John Palmer, Ed. (Great Yarmouth: Louis Alfred Meall, 1858), 23-24.
[36] William Sheppard, *Of Corporations, Fraternities, and Guilds: Or, a discourse, wherein the learning of the Law touching Bodies-Politique is Unfolded; shewing the use and necessity of that invention, the antiquity, various kinds, order and government of the same. Necessary to be known not only of all members and dependants of such bodies, but of all the professours of our Common Law* (London: H. Twyford, T. Dring, and J. Place, 1659), 2, 4-5; *The Law*

independent (still less private) governing bodies within the state.[37] Corporate charters illustrate this point. These documents formally constituted English municipal governments, recognizing the borough community as a legal entity capable of holding property, privileges, and jurisdictions. Like other forms of officeholding, incorporation simultaneously affirmed local rights to self-government and bound the community more closely into the coordinated network of the early modern state. Corporate charters were royal grants, written in the first person and sporting an image of the monarch on the first page, a reminder of the source of the local government's legitimacy. Charters granted privileges and rights to local governors in trust that they promote the "good government" of the locality. London's 1638 charter had been granted to advance "the good and happy estate" of the city and to "establish… [its] rule and government."[38] Lincoln's charter obligated local officeholders to secure "the better and more certain rule, government, and amelioration of the City."[39] Ipswich's charter was granted to promote "the advancement of the town" and "its good regimen and government."[40] The charter of Kingston-Upon-Hull described that it had been granted "for the better government, rule, and amelioration of the… town and borough… for the public good and better rule of the same."[41] Charters granted significant powers to municipal officeholders, but they could never forget who granted them or why. By entrusting municipal officers with local government, charters reinscribed the crown's position as the supreme governor – the institution capable of granting governing authority and

of Corporations: containing the Laws and Customs of all the Corporations and Inferior Courts of Record in England (London: Printed by the assigns of R. and E. Atkins for I. Cleeve, 1702), 1-2, 5.
[37] Halliday, *Dismembering the Body Politic*, 29-33.
[38] "Charter of King Charles I" (10/18/1638) in John Noorthouck, Ed., *A New History of London including Westminster and Southwark* (London: R. Baldwin, 1773), 820.
[39] "Charter of Charles I" (12/18/1628) in Walter de Grey Birch, Ed., *Royal Charters of the City of Lincoln* (Cambridge: Cambridge University Press, 1911), 201.
[40] "Charter of Charles II" (2/11/1664[/5]) in Richard Canning, Ed., *The Principal Charters which have been Granted to the Corporation of Ipswich in Suffolk, Translated* (London: 1754), 31-32.
[41] "Charter of Charles II" (12/3/1661) in J.R. Boyle, Ed., *Charters and Letters Patent Granted to Kingston Upon Hull* (Hull: The Hull Corporation, 1905), 153.

the source of legitimacy for all subordinate political power.[42] Charters also had another feature which facilitated central coordination: they were capable of inspection in the Court of King's Bench, through informations of *Quo Warranto*. *Quo Warrantos* alleged that officeholders had abused or misused authorities grounded in specific charter provisions and required them to show "by what warrant" their conduct was justified.[43] Royal charters thus served as both the foundation of local authority and the anchor of central oversight. By predicating corporate authority on royal authority and making the exercise of the former answerable in royal courts, charters provided powerful tools to coordinate political power throughout England's municipalities, binding them into a networked state centered on the monarch.

Corporations played a peripheral role in the government of medieval England, but over the course of the 16th and 17th centuries they became increasingly central to the functioning of the English state. In the words of Phil Withington, "it was the early modern period that marked England's era of incorporation."[44] This process was driven by a mix of economic, religious, and political forces. The great economic transformations of the 16th and 17th centuries – population growth and rising prices leading to stagnating wages and the concentration of land into fewer hands – created a number of problems to which additional government was seen as the answer.[45] Incorporation legitimized local governments and empowered them to regulate the local (and therefore national) economy through market regulations, local bylaws, and courts. Rising national poverty led to the passage of parliamentary statutes regulating poor relief and

[42] Patterson, *Urban Government and the Early Stuart State*, 5-10, 13-49.
[43] These "informations" were based on medieval "writs" of *Quo Warranto*, but by the early modern period informations had become the rule. In addition to their greater specificity, informations had other benefits – they did not require a grand jury to establish a *prima facie* case, and, in the event that the case went against the corporation, they allowed flexible sentencing. See Halliday, *Dismembering the Body Politic*, 162-4. Henceforth in this dissertation, all mentions of *Quo Warranto* will refer to informations rather than writs.
[44] Withington, *Politics of Commonwealth*, 12.
[45] Keith Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain, 1470-1750* (New Haven: Yale University Press, 2000); Withington, *Politics of Commonwealth*, 159-194.

compulsory employment for England's paupers, the administration of which fell in many cases to municipal corporations. These economic problems were exacerbated by the dissolution of the Catholic Church, as monasteries and hospitals long responsible for dispensing alms were shuttered by Henry VIII.[46] The dissolution likewise upset titles to lands throughout England, spurring many village communities to seek incorporation as a way to secure legal recognition for communal property rights at a time of widespread economic dislocation.[47] As importantly, the dissolution created a vacuum in English governance, and village communities rushed to acquire legal recognition to fill the void left by the Catholic Church.[48] In general, the crown was quite happy to comply with local requests for incorporation – municipalities paid a hefty fee for the privileges of self-government, making their issue in some respects doubly beneficial for monarchs. Corporations proliferated in early modern England as a result: in the century between the break with Rome and the outbreak of the English Civil War, the number of municipal corporations more than quadrupled from 44 to 181.[49] Yet the rapid development of England's corporate system forced monarchs, commentators, and corporate officeholders alike to grapple with the relationship between the republican and royal elements of England's government.

From at least the reign of Elizabeth, England's "corporate system" attracted its fair share of critics. The first known treatise on corporations in English, a manuscript from the late 1580s, censured their growing prominence in the kingdom's government. "All corporations of cities and

[46] Paul Slack, *From Reformation to Improvement: Public Welfare in Early Modern England* (Oxford: Clarendon Press, 1998); Paul Slack, *The English Poor Law 1531-1782* (Houndmills, Basingstoke: Macmillan, 1990), 14; Patterson, *Urban Government and the Early Stuart State*, 111-145.
[47] Robert Tittler, "The Incorporation of Boroughs, 1540-1558" *History* 62, no. 204 (1977): 24-40; Robert Tittler, *The Reformation and the Towns in England: Politics and Political Culture, c.1540-1640* (Oxford: Clarendon Press, 1998), 59-136.
[48] Tittler, *The Reformation and the Towns in England*, 149-181. On the. myriad ways that English subjects collaborated with and negotiated the "reformation," see Ethan H. Shagan, *Popular Politics and the English Reformation* (Cambridge: Cambridge University Press, 2003).
[49] Withington, *Politics of Commonwealth*, 19-25.

towns," wrote the author, were "very inconvenient and hurtful to the subjects and commonwealth" not least because they elevated "men void of all learning" to positions of authority within their communities.[50] The sharing of political authority that the early modern English state required could lead to distressing arrangements when subjects were governed by their perceived equals (or worse, their social inferiors). An agent lobbying for the confirmation of the charters of Poole found that "the name of incorporation [was] so discredited" with Elizabeth I that he vowed that this "shall be the last incorporation that ever I will deal with."[51] The foremost English theorist of sovereignty, Thomas Hobbes, remarked that corporations were "like worms in the entrails of a natural man," parasites which enfeebled the body that gave them life.[52] Yet others understood corporations to have a more positive effect on the health of the body politic. According to James I, all kings were "properly judges, and judgement properly belongs to them from God." Yet "in all well-settled monarchies, where law is established formerly[*sic*] and orderly," it had been the practice of kings to defer judgement to their "subordinate magistrates." Yet this was no sign of diminution: it was "not that the king takes it from himself, but gives it unto them."[53] Archbishop William Laud inserted a similar clause into the preamble of the charter of Reading in 1638. "In every monarchy," began the charter, "the safety of the people depends upon the crown and all authority is derived from the prince." Monarchs then "ordain officers who, for the purposes of administering justice and keeping of the peace should govern cities and

[50] "A Discourse of Corporations" (c. 1587-1589) in RH Tawney and Eileen Power, Eds., *Tudor Economic Documents, being Select Documents Illustrating the Economic and Social History of Tudor England* (London: Longmans, Green and Co, 1924), III: 273, 276.
[51] Shelagh Bond and Norman Evans, "The Process of Granting Charters to English Boroughs, 1547-1649" *English Historical Review* 91, no. 358 (Jan 1976): 111.
[52] Thomas Hobbes, *Leviathan*, Edwin Curley, Ed. (Indianapolis: Hackett, 1994 [1651]), 218.
[53] James I, "A Speech in the Star Chamber" (6/20/1616) in C.H. McIlwain, Ed. *The Political Works of James I* (Cambridge, MA: Harvard University Press, 1918), 326.

other places… and the people inhabiting the same."[54] For these two men, both of whom held royal prerogative in high esteem, royal authority was entirely compatible with incorporation. Sovereignty was not zero-sum; each new charter enhanced the power of local officeholders to govern their communities while binding them more closely into the network of state power.

The corporations that England's monarchs chartered for the purposes of overseas trade and colonization ought to be understood against the backdrop of their early modern municipal kin. They were not "company-states" or privately-governed sovereignties – they were, in fact, extensions of the early modern state, institutions endowed with political authority by England's monarchs and empowered to govern some people, region, or trade on behalf of the sovereign. As a wealth of scholarship in previous decades has demonstrated, England and its overseas territories constituted a single "imperial state" that can only be fully understood as a collective whole.[55] This is not to say that there were no meaningful differences between English municipal corporations and overseas companies. The latter wielded some prerogatives – powers of diplomacy and warmaking, for instance – that those in metropolitan England never did. Physical (but not legal) distance from the coordinating influence of the monarch, the realities of interaction with Indigenous powers, and other practical realities of the colonizing process meant that corporations on the imperial periphery were, at times, able to exercise greater autonomy than their metropolitan peers.[56] Yet the existing historiography has pushed this distinction too far and

[54] "Charter of Charles I" (12/17/1638) in C. Fleetwood Pritchard, Ed. *Reading Charters, Acts, and Orders, 1253-1911* (Reading: Wyman & Sons, 1913), 54; Patterson, *Urban Government and the Early Stuart State*, 19.
[55] The manifesto of this movement is Steven Pincus, Tiraana Bains, and A. Zuercher Reichardt, "Thinking the Empire Whole" *History Australia* 16, no. 4 (2019): 610-613.
[56] Scholars of "company-states" acknowledge an intellectual debt to Jack P. Greene and other scholars who describe the early modern imperial constitution as an "extended polity" shaped by a competition between an imperial center seeking to reduce the colonies to "absolute obedience" and a colonial periphery jealous of its "corporate independence." Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Polities of the British Empire and the United States, 1607-1788* (New York: Norton, 1990 [1986]), chapters 1 and 2, especially pp 12-13. This is essentially the dynamic described by "company-state" historians. For citations to Greene's work in

obscured the commonalities underlying corporate governance in England and the empire. These commonalities fall into two main categories: law and political culture.

Overseas corporations were, legally speaking, the same kind of entity as their metropolitan kin. They were founded by the same legal instrument, a royal charter, carried similar obligations and powers, and implied an identical relationship to the monarch. The first charter granted to the East India Company by Elizabeth I in 1600 empowered the company to make laws "for the good government of the said company," the better to promote "the increase of navigation, and the advancement of lawful traffic, to the benefit of our commonwealth."[57] The charter given to the Somers Island Company by James I ordered that corporation to "make, ordain, and establish all manner of orders, laws, directions, instructions, forms, and ceremonies of government and magistracy" to better serve "the general weal of human society" and "in respect of the good of our own estate, kingdoms, and people" for the security of "our loving subjects planted… in the said island."[58] Charles I's charter to the Massachusetts Bay Company empowered them "to make laws and ordinances for the good and welfare of the said company, and for the government and ordering of the said lands and plantation" and in general to act as "any other corporation or body politic of [this our realm of England] may do."[59] Overseas corporations, at their core, were privileges granted to bodies of men for the purpose of governing people and territories – in theory and law largely identical to those in the metropole. This legal similitude had enormous significance for the development of the relationship between overseas corporations and the

"company-state" scholarship, see Stern, *The Company-State*, 10, 221n37; Phillips and Sharman, *Outsourcing Empire*, 23n4.

[57] "Charter Granted by Queen Elizabeth" (12/31/1600) in John Shaw, Ed., *Charters Relating to the East India Company, from 1600 to 1761* (Madras: Printed by H. Hill, 1887), 7, 2.

[58] "Charter of James I" (2/22/1615[/6]) in John Henry Lefroy, Ed. *Memorials of the Discovery and Early Settlement of the Bermudas or Somers Islands, 1515-1687* (London: Longmans, Green, and Company, 1877), I: 91-92, 86.

[59] "Massachusetts Bay Charter" (3/4/1628[/9]) in Francis Newton Thorpe, Ed. *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies now or heretofore forming the United States of America* (Washington, DC: Government Printing Office, 1909), III: 1853, 1851-2.

crown. Corporate policies and precedents in Whitehall and Westminster were primarily developed for coordinating the government of England's ~200 chartered municipalities. Yet the individuals involved in shaping and enforcing those policies in England also played a role in administering England's developing overseas empire, allowing their evolving attitudes towards corporate autonomy to shape the nature of England's imperial constitution. Focusing exclusively on overseas corporations gives a distorted view of the nature of the corporate-crown relationship in the early modern period, ignoring many of the controversies that shaped policy.

The other commonality linking overseas and metropolitan corporations has to do with their common political culture. Just as in England, incorporation shaped a political ethos based around ideas of self-government at the king's command. This is hardly surprising: many of the leading figures involved in overseas colonization in its earliest years were merchants and middling gentry. Planters, colonists, and those involved in the government of overseas corporations were thus drawn precisely from those orders that made up the bulk of England's local officeholders – those figures who had the most experience with the "self-government at the king's command" that was the defining feature of the Tudor and Stuart state. As they established England's overseas empire in the 17th century, these governors brought that civic ideal with them – colonial leadership was another office, similar in kind to positions these men would have occupied within their local communities in England.[60] From our vantage atop the rubble of empire, it can be tempting to see these colonists as expressing a distinctly *colonial* attachment to self-government, but on closer inspection it seems more like an imperial manifestation of a familiar commitment

[60] See for instance Francis J. Bremer, *John Winthrop: America's Forgotten Founding Father* (Oxford: Oxford University Press, 2003), especially 105-124.

to corporate autonomy *within* the English state.[61] Particularly when colonial governors were challenged by those they governed, they tended to emphasize the royal provenance of their authority as a way of quieting dissent and legitimizing their rule – a rhetorical move that makes it extremely difficult to understand corporations overseas as independent bodies politic untethered from the national state. From the perspectives of both crown and corporation, overseas corporations largely fit into the same framework as their municipal kin – that is, they were part of the network of officeholders exercising political authority that was the English state.

None of this is to suggest that that state was a straightforward hierarchy or bureaucratic polity. Corporate power, whether in England or overseas, was contradictory and complex: it extended the reach of the central government, but in ways only partially under the government's control; it was executed by subjects who, on taking their oath of office, shared in the power of the state; because its wielders were both subjects and citizens, it was not a form of "private enterprise" outside of the state, but nor was it anything like the professional bureaucratic apparatus we recognize today. As instruments for the government of early modern England, corporations were involved in a constant negotiation between the will of the crown and other priorities, with corporate officeholders exercising broad discretion in their execution of central edicts. At its best, self-government at the king's command promoted a harmonious body politic in which crown and corporation united to govern the realm. Yet at times this harmony broke down: the essence of corporate self-government lay in the act of balancing the execution of the royal will with other obligations of locality, identity, and ideology. Recognizing that this task was

[61] Greene, *Peripheries and Center*, 11-12; Kenneth R. Andrews, *Trade, Plunder, and Settlement: Maritime Enterprise and the Genesis of the British Empire, 1480-1630* (Cambridge: Cambridge University Press, 1984), 16-17.

common to corporate officeholders across England and its empire allows us to place both into a common history of corporate-crown relations in the reign of Charles II.

Having come to an understanding of the nature of the corporation and its diffusion across England and the empire during the early modern period, we can turn at last to an interrogation of the engine underlying this common history. What fueled disagreements between Charles II and his corporations? Why was corporate regulation such a significant priority for the Restoration monarchy? For revisionist historians of the municipalities, of course, it wasn't – the forces which propelled Charles II to issue new corporate charters came from the localities, which pursued them for essentially local reasons. According to "company-state" historians meanwhile, conflicts between crown and corporation were the product of debates over the limits and nature of royal sovereignty. Yet neither of these answers seems totally compelling. Revisionists, while right to focus our attention on the borough community as a site of conflict, have largely done so by downplaying the national and ideological factors that made corporate regulation so widespread in Charles's reign. We are left with something like a pointillist account, one in which similar patterns play out across distinct localities that are all ultimately disconnected both from each other and from the nation at large. The "company-state" historians' reliance on abstract disputes over "sovereignty" and the relationship between crown and corporate officeholders comes with its own difficulties. Throughout the reign, as we will see, conflicts between corporations and the crown frequently devolved into debates over sovereignty, royal authority, and corporate rights. Yet a focus on sovereignty obscures more than it illuminates. Sovereignty was always a second order concern; while the location of political authority mattered greatly to contemporaries, it only became worth arguing over when there were disagreements about how to use it.[62] If we want to

[62] See Don Herzog, *Sovereignty, RIP* (New Haven: Yale University Press, 2020).

understand why Charles II sought to assert his royal sovereignty over corporations across his empire, we need to understand the relationship between corporations and those first-order conflicts that made sovereignty such an important question. We must turn our attention to politics.

The political history of the Restoration has received renewed vigor in the decades since the English publication of Jürgen Habermas's *The Structural Transformation of the Public Sphere*. Habermas coined the term "public sphere" to describe a social realm in which "private people come together as a public," a bourgeois space in which private people drew upon text to make "public use of their reason" "against the public authorities," that is, the state.[63] We have already noted the inadequacy of a binary framework of rulers and ruled for understanding early modern English society, and in the decades since Habermas's work became available in English a whole host of qualifications, corrections, and challenges have emerged to answer his notion of an early modern "bourgeois public sphere" centered on private, literate people rationally bringing the state under the control of civil society.[64] Yet Habermas's basic notion has proved surprisingly durable as a way to conceptualize changes in early modern English politics, with significant implications for our study of corporate regulation. Peter Lake and Steven Pincus envision the public sphere in early modern England as "an arena for the public discussion of political and religious issues," one defined from the mid-17th century by continuous debate of "issues of religion, the constitution, the national interest, and political economy."[65] This debate relied on a

[63] Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Thomas Burger and Frederick Lawrence, trans. (Cambridge, MA: Massachusetts Institute of Technology Press, 1989 [1962]), 27.
[64] Harold Mah, "Phantasies of the Public Sphere: Rethinking the Habermas of Historians" *Journal of Modern History* 72, no. 1 (March 2000): 153-182; see also the essays collected in Peter Lake and Steven Pincus, *The Politics of the Public Sphere in Early Modern England* (Manchester: Manchester University Press, 2007), virtually of which qualify or contest some aspect of Habermas's framework.
[65] Peter Lake and Steven Pincus, "Rethinking the Public Sphere in Early Modern England" in Lake and Pincus, Eds., *The Politics of the Public Sphere in Early Modern England*, 1-12.

material foundation of diverse forms of public communication and performance. The core technology of the public sphere was text, both manuscript and print. Newsletters, newspapers, pamphlets, poems, libels, and broadsides reflected and shaped public opinion across England and its empire.[66] Yet participation in the public sphere did not require literacy. Texts could be transmitted orally, imparting additional meanings and extending their audiences. Images, songs, bonfires, processions, and plays all served as ways of appealing to and shaping public opinion.[67] In addition to the media of communication, the public sphere relied on an infrastructure of communication – of scribes, printers, and other professionals engaged in disseminating information, and of physical places for dissemination and discussion to occur, like theaters, taverns and coffeehouses.[68] These technologies and infrastructure bound together center and locality through a common national political discourse. Corporate towns were especially vital to this phenomenon; towns were the critical nodes through which networks of information and the infrastructure of the public sphere were concentrated. Port towns served as the main artery informing colonists overseas of events in the metropole, helping to expand a national conversation into an imperial one. This imperial conversation was built on the foundation of hundreds of local discussions, each mediated by their own local dynamics, structures, issues, and political cultures. Yet those discussions were in constant dialogue with events in the imperial

[66] Many studies could be cited here, but a handful of important works are: Noah Millstone, *Manuscript Circulation and the Invention of Politics in Early Stuart England* (Cambridge: Cambridge University Press, 2016); Jason Peacey, *Print and Public Politics in the English Revolution* (Cambridge: Cambridge University Press, 2013); Kevin Sharpe and Steven N. Zwicker, Eds. *Reading, Society and Politics in Early Modern England* (Cambridge: Cambridge University Press, 2009); Joad Raymond, "The Newspaper, Public Opinion, and the Public Sphere in the Seventeenth Century" in Joad Raymond, Ed. *News, Newspapers, and Society in Early Modern Britain* (London: Routledge, 1999), 109-136.

[67] Tim Harris, *London Crowds in the Reign of Charles II* (Cambridge: Cambridge University Press, 1987); John Spurr, *England in the 1670s: "This Masquerading Age"* (London: Blackwell, 2000).

[68] Steve Pincus, "'Coffee Politicians does Create': Coffeehouses and Restoration Political Culture" *Journal of Modern History* 67, no. 4 (December 1995): 807-834; Andrew R. Walking, "Politics and Theatrical Culture in Restoration England" *History Compass* 5, no. 5 (2007): 1500-1520; David Allen, "Political Clubs in Restoration London" *The Historical Journal* 19, no. 3 (September 1976): 561-580.

center, in London, Westminster, and Whitehall. The task of post-revisionist scholarship is not to reject the revisionists' emphasis on particularities of place; it is to explain the ways that those particularities fit within and interacted with an interconnected national polity. Recognizing the existence of a public sphere, the boundaries of which were far more expansive than the locality but gained peculiar expression therein, provides a way to do this.

By the Restoration of the monarchy, continuous public discussion of issues of state was a fact of life. The participatory nature of the public sphere made it a destabilizing force in a society where order rested on hierarchy and obedience. Public debate over government policy made "apprentices turn privy councilors" in the words of the Earl of Dorset, creating a situation in which even the lowliest English felt emboldened to debate the means, ends, and nature of political power. William Cavendish, Earl of Newcastle, writing on the eve of the Restoration, agreed: "every man is now become a state man."[69] The very nature of authority was shifting in this environment, as persuasion and public support gradually eclipsed obedience as its primary bulwark. In early modern England and its empire, where political power was held so diffusely, the rise of the public sphere was especially consequential. The thousands of men involved in governing England and its overseas empire engaged in this public sphere, weighing issues of state and debating the ideal religious, constitutional, or political economic policies for the government to pursue. Yet as wielders of political authority themselves, they were able to put aspects of those programs into action. Fueled by competing understandings of the nature and ends of "good government" and by the clash between competing visions of the English constitution, political economy, and religion, corporate governors in many places turned their

[69] Quoted in Peacy, *Print and Public Politics in the English Revolution*, 4; Thomas P. Slaughter, Ed., *Ideology and Politics on the Eve of Restoration: Newcastle's Advice to Charles II* (Philadelphia: University of Pennsylvania Press, 1984), 56.

political power against other parts of the state, deploying the king's authority to promote partisan ambitions. The interaction between the divisive politics born by the onset of the public sphere and the distributed political authority that characterized the early modern English state produced an epoch defined by intrastate battles over "good government."

It is in this light that we must understand the disputes between Charles II and the corporations that governed England and its empire. They were not battles between a public state and private actors about the extent of public authority. They were, instead, battles between various actors wielding power *within* the state motivated in large part by disagreements over how that power ought to be used. Charles II's attempts to regulate corporations were the product of political conflicts between the king and parts of the nation wielding political power in his name for purposes against his will. The king and his ministers were actively involved in this process, and the issues at stake were more tangible and more pressing than questions over sovereignty. Those corporate officeholders who opposed royal power, in turn, did so primarily to defend concrete goals below the level of sovereignty – policies associated with the legacy of the civil wars, the terms of the Restoration, the place of nonconformists within society, the royal succession, and royal financing – but ultimately expressed their defenses in the language of corporate rights. Debates over royal sovereignty and corporate rights are an important part of this story – indeed, one way of understanding the corporate policy of the 1680s is as an attempt to diminish the significance of the republican element in English governance – but it is impossible to understand attempts at corporate regulation in late 17th century England without an appreciation of the broader contours of Restoration politics. Political considerations in turn shaped policy and law, giving rise to new doctrines about the relationship between corporations and the crown which were enshrined in statutes and court rulings. It is no coincidence that three

of the chapters which follow end in courtrooms – controversies over the nature of the corporation frequently reached their climax before the bar, and precedents established in key cases like *Rex v. London* shaped subsequent controversies over corporate-crown relations in places throughout England and its empire. Although my primary focus is on the relationship between corporations and the crown, I have taken the revisionist note that understanding corporate behavior requires examining local records. The research for this project has thus drawn upon the archives of the central government as well as the archives of corporations themselves. The State Papers at the National Archives of the UK are well used, as are parliamentary and court records, but I have placed them alongside libraries which yield insight into politics *within* the corporations, including the India Office Records, the Massachusetts Historical Society, the Boston (Massachusetts) Public Library, and the holdings of more than a dozen English county archives. It is my hope that doing so has enabled me to provide an account of corporate-crown conflict in Restoration England and its empire that is attentive to both sides of the hyphen.

The dissertation begins in the wake of the civil war and interregnum and examines the politics of corporate power across the 25 year reign of Charles II.[70] The first part describes the two royal policies towards corporations that prevailed at different times during the reign. Chapter one, "Placing the Government in Right Hands," examines English corporate policy at the Restoration of the monarchy in the 1660s. It shows that the common royalist belief that one cause of the civil wars had been excessive corporate autonomy led to multiple prescriptions for royal corporate policy in 1660. It then examines the crown's decision to pursue a conservative corporate policy under the Earl of Clarendon, one defined by a desire to maintain existing corporate charters while ousting personnel known for their disloyalty. This tendency, shaped by

[70] From 1660 to 1685. By a legal fiction, Charles II's rule began at his father's execution on January 30, 1648[/9], but he did not actually reign in England until May 29, 1660.

metropolitan political and constitutional concerns, was expressed in colonial policy as well, particularly in the various approaches taken by the Committee for Trade and Plantations towards New England in the 1660s. Corporations likewise became increasingly central to crown fiscal policy through the incorporation or reincorporation of joint stocks like the Company of Royal Adventurers trading into Africa or the East India Company. The chapter concludes by examining the degree to which Clarendon's policy had failed to secure the crown either constitutionally or financially by 1667. The second chapter, "Let Evil Corporations Take Care," examines the political pressures that forced a reassessment of the crown's corporate policy in the late 1670s and early 1680s. The popish plot and the exclusion crisis demonstrated the extent to which corporate autonomy was a vital tool to enemies of the Stuart monarchy. As corporations like London used their autonomy to shield leading Whigs from royal justice, figures in Whitehall like Lord Chief Justice of the Common Pleas Francis North formulated a new corporate policy based on mass-rechartering aimed at including new clauses ensuring royal power to veto or displace corporate officeholders. North's policy would use a combination of carrots and sticks to seduce corporations to surrender, the latter of which would become maximally effective with the defeat of London in *Rex v. London* in June 1683. This interaction between English politics and corporate law would reverberate throughout England and its empire.

The second part of the dissertation focuses on the contests within corporations over how to respond to Whitehall's new corporate policy in the 1680s. Chapter three, "A Great and National Concern" describes how national political conflicts and events shaped the pattern of surrender in England's municipal corporations. It examines how perceived Whig abuses of corporate autonomy validated the ideology of the Tory Reaction and encouraged townsmen throughout England to part with their municipal autonomy. This process proceeded in two waves, separated

by two national political events in June 1683: Charles's victory in *Rex v. London*, which greatly diminished the prospects for successfully resisting the crown; and the revelation of the "Rye House" Plot, which confirmed the worst fears of Tory polemicists. The success of the new corporate policy in England depended on local engagement with national politics. Yet both the policy and the politics that shaped it influenced events throughout the empire, and the last two chapters examine two especially heated cases: the East India Company and the Massachusetts Bay Company. Chapter four, "A Company under the Government of England" describes the ways that under Governor Josiah Child the East India Company in the 1680s allied itself with the Stuart monarchs in order to suppress its interloping rivals. It did so by emphasizing its role as a subordinate body politic within the English state and its submission to the Stuarts, both overtly partisan appeals at a time of great division in English politics. This view neatly mirrored the corporate policy Whitehall had begun to articulate in 1681-1683, and received confirmation in *EIC v. Sandys*, a case that saw the EIC affirm its own subordination by appropriating the verdict in *Rex v. London*. The demise of the Massachusetts Bay Company likewise shows how corporate law developed for England's municipalities affected corporations across the empire. Chapter five, "No Other than a Corporation," describes how North's corporate policy intensified longstanding tensions between Massachusetts and Whitehall. Tories in Whitehall, including North, viewed Massachusetts Bay as a fractious corporation with politics akin to those of London in the 1680s, whereas defenders of the Bay Colony drew inspiration to resist from the example of England's municipal corporations. The final years of the Massachusetts Bay Company were thus shaped by the broader corporate and political context of the 1680s, as figures in Boston and Whitehall drew upon the experience of English municipal corporations to debate the nature of the colony's relationship to the crown. The experiences of the East India and

Massachusetts Bay companies demonstrate the extent to which the legal and political worlds of England and the empire were intertwined in the late 17th century, as new policies developed for the metropolitan context impacted governance overseas.

The Restoration experience of corporate regulation has many things to teach us about the relationship between corporations and states: it reminds us that corporations were originally tools for public good; it reminds us of the ability of autonomous centers of power to frustrate authoritarian pretensions; and it reminds us that the self-government we enjoy as citizens of a republic obliges us to serve the public good as well as define it. Yet these lessons can only be learned when we allow the early modern experience to speak for itself, without imposing anachronistic frameworks onto the past. What follows is an attempt to understand the corporate policies and politics of Restoration England and its empire on their own terms.

PART I:

The Making of English Corporate Policy, 1660-1683

"Placing the Government in Right Hands":

English Corporate Policy during the Clarendon Ministry, 1660-1667

Introduction

On July 25, 1661, Heneage Finch, Solicitor General of England and MP for Oxford University, presented a list of reasons why the House of Commons had seen fit to reject some proposals from the Lords concerning the regulation of municipal corporations. Finch's rebukes were passionate. The Commons had intended to "establish [corporate] charters, notwithstanding past defects" whereas the Lords would have all corporations renew. The Lords' proposals "took no care that, if renewed" municipalities "shall have their old privileges." While the Commons had recommended a "temporary reformation," the Lords had sought a perpetual change. This, Finch warned, would occasion a "disturbance of government." The Lords, he argued, had made a mistake. The regulation of corporate governments did not require the wholesale upending of the English constitution. Instead, "the whole regulation of corporations" consisted of "placing the government in right hands." So long as "good men" were put in, there would be no need for such aggressive interventions.[1] In the end, the version of the bill which became law reflected the vision Finch laid out – the regulation of corporate governments would be temporary, personnel-focused, and conservative, rather than constitutionally radical.

By the end of the reign, state corporate policy would be very different. Whereas earlier interventions had sought to preserve charter privileges, the last years of Charles's monarchy extirpated them. The great *Quo Warranto* campaigns seized the charters of municipalities from London to Lancaster. Corporations across the sea did not escape the grasping hand of the King. Massachusetts Bay and the Somers-Island Company both lost their charters in 1684. Even

[1] "Speech of Heneage Finch" (7/25/1661) *Journal of the House of Commons* (London: His Majesty's Stationery Office, 1802), VIII: 312 (hence *CJ*).

corporations which were on good terms with the monarch became more tightly dependent on his will – the Royal African and East India trading companies became, in the words of one justice, royal "ambassadors," extensions of royal power rather than distinct and autonomous bodies.[2] No longer was corporate policy aimed at simply "putting in good men." Now corporate reform required considering "the whole matter" "from the very root," and corporations as semi-autonomous bastions of governing authority would be done away with.[3] Here was the "perpetual change" the Lords had recommended, some 20 years later.

The story of corporate policy under the later Stuarts is the chronicle of this transformation. Why, over the course of two decades, did Charles Stuart and his ministers move away from conservative policies aimed at placing loyal men in positions of authority in privileged corporate governments, towards policies aimed at radical constitutional intervention and the extirpation of existing corporate charters?

Answering this question is beyond the scope of a single chapter. It requires explaining the connections between English politics and corporate governments over 25 years that have long been recognized as transformative in the annals of early modern European history. This chapter's goals are more modest. It seeks to explain the first step in this process. Why did Charles II and his ministers, chief among them Edward Hyde, Earl of Clarendon, advance a conservative corporate policy in the first decade of the new reign? And why did those policies fail before the end of the decade?

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[2] George Jeffreys, *The Argument of the Lord Chief Justice of the Court of King's Bench Concerning the Great Case of Monopolies* (London: Randal Taylor, 1689 [Jan 1685]), 24.
[3] "The Business of New England" (4/8/1678) in Robert Noxon Toppan and Alfred Thomas Scrope Goodrick, Eds., *Edward Randolph: Including his Letters and Official Papers from the New England, Middle, and Southern Colonies in America, and the West Indies* (Boston: The Prince Society, 1898), II: 297.

Most historians have argued that no such policy existed. These historians have leveraged a "center and periphery" model of the imperial constitution. This model posits that the basic conflict in imperial politics was a zero-sum battle between an expansionist center which sought to bring all political and governing power under its control, and various peripheral bodies which, while they might squabble about local matters, were united in their desire to resist centralized intervention. It rests on what may be termed an anarchist-libertarian view of state formation, in which states are inherently hostile to local liberty. On the other side, standing against the state, is an apolitical locality, one which seeks only the preservation of liberty against a centralizing despotism.

Traditionally, as it has been expressed in Atlantic historiography, the center has been the British government in Whitehall and Westminster, while the peripheries have been the colonies. But the same basic framework can be found in historiography on corporations throughout the British Empire.[4] The eminent Whig historian GM Trevelyan describes the *Quo Warranto* campaign of the 1680s as a conspiracy between "Tories and the monarchy" to "destroy local self-government."[5] Because the center and periphery framing assumes an eternal conflict between the state and the various united localities, many historians have seen evidence of the dynamic throughout Charles II's reign – indeed, historians of the center and periphery school have seen the corporate policies of the 1660s as essentially failed attempts to erect the same king of

[4] A "corporation" in the legal texts of the day was understood to be a body politic, created by a royal grant, which possessed governing power in some domain – whether it be a trade or local government. William Sheppard, *Of Corporations, Fraternities, and Guilds: Or, a discourse, wherein the learning of the Law touching Bodies-Politique is Unfolded* (London: H. Twyford, T Dring, and J Place, 1659), 1-8. The basic legal definition was more-or-less constant in the late 17th century. See *The Law of Corporations: containing the Laws and Customs of all the Corporations and Inferior Courts of Record in England. Treating of the Essentials of, and Incidents to, a Corporation* (London: Printed by the Assigns of R. and E. Atkins for I. Cleeve, 1702), 1-2. Disagreements focused less on the definition of corporate bodies and more on the conditions for royal intervention.

[5] GM Trevelyan, *England Under the Stuarts*, 13th Ed. (London: Methuen and Co. LTD, 1926 [1904]), 424. Trevelyan sees those governments as Whiggish by default; Whiggery and the protection of local governing authority are here assumed to be the natural states of municipal peripheries.

absolutist state which developed under Danby in the 1670s and reached its maturity in the 1680s. Thus does JH Sacret write that the Crown had designed "similar measures" to the *Quo Warranto* campaign "since the beginning of Charles II's reign."[6] For such historians the Crown sought, from the beginning, to purge corporate autonomy from England's municipalities.

Nowhere has the logic of center and periphery held greater sway than in scholarship on the English Empire. For Jack P. Greene, the Restoration marked the inception of a metropolitan policy "intended to reduce the colonies to… an absolute obedience to the King's authority."[7] Charles M. Andrews, who inaugurated the imperial school of colonial American history, argued that from the Restoration "the mother country" sought "to transform the private colonies into royal dependencies" and "to find some way of centralizing her authority in America." The goals of imperial policy are largely static for Andrews, which developments in the 1660s "clearly anticipatory of further development… of centralized control."[8] Despite taking opposite views on the location of power within the imperial constitution, Andrews and Greene both describe a conflict between an expansionist center and a defiant periphery.[9]

In recent years, the center and periphery formulation has been appropriated by "Company-State" historians to describe the persistent tension they perceive between joint stock trading companies granted wide governing privileges and the English state.[10] The sub-field's

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[6] JH Sacret, "The Restoration Government and the Municipal Corporations" *The English Historical Review* 45, no. 178 (April 1930): 233.

[7] Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Polities of the British Empire and the United States, 1607-1788* (New York: WW Norton, 1990 [1986]), 13. Greene lays out the tension between periphery and center in chapters 1 and 2: "In Quest of Periphery Dependence" and "In Quest of Periphery Rights."

[8] Charles M. Andrews, *The Colonial Period of American History* (New Haven: Yale University Press, 1934-1938), I: xi-xiii; III: 68; IV: ix.

[9] Andrews saw the "mother country" as the "central figure, the authoritative and guiding force" of imperial political development. Greene meanwhile argued that "in practice, metropolitan power extended into the periphery only so far as powerful local political establishments found acceptable." Andrews, *Colonial Period*, I: xi-xiii; Jack P. Greene, *Negotiated Authorities: Essays in Colonial Political and Constitutional History* (Charlottesville, VA: University Press of Virginia, 1994), 392.

[10] This intellectual debt can be seen in citations within company-state historiography. Philip Stern cites Greene's *Negotiated Authorities* when explaining the character of the English empire, and Andrew Philips and JC Sharman

most compelling thinker, Philip J. Stern, describes a "composite and decentered" imperial constitution. The joint stocks meanwhile are in "alliance and tension" with "the national state, with its claims to coherent and central power."[11] A recent survey of company-state literature suggests that their commercial success was dependent upon their capacity to preserve their "autonomy" from their sponsors in the metropole, who would otherwise turn the companies into "instruments of rulers' geopolitical and military aims." Political interference" from home states, on this view, caused the untimely demise of the Atlantic company-states. The life of a company-state was spent, like an Atlantic colony, in preserving periphery rights against metropolitan encroachment.[12]

These narratives have two major issues. Firstly, the center and periphery model assumes a homogeneity and constancy of the two spheres. The center always and inevitably (at least during Charles's reign) sought domination of the peripheries, which in turn were always united in their opposition to royal domination. In this story, the center never entertains alternative possibilities for the relationship between the state and corporations, and instead always seeks their extirpation, while actors on the periphery share a common interest in maintaining their corporate autonomy. This story in other words replicates a binary relationship between rulers and ruled, a zero-sum contest in which both vied with one another for mastery.

Furthermore, the center and periphery view reduces the importance of politics. That is, the relationship between the expansive center and the autonomous periphery precludes the possibility of corporate jurisdictional politics. It mistakes legal pluralism and the proliferation of

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cite Greene's *Peripheries and Center* when describing Company-States as revolutionary forms of "extended polities." Philip J. Stern, *The Company-State: Corporate Sovereignty and the Early Modern Foundations of the British Empire in Asia* (Oxford: Oxford University Press, 2011), 10n37; Andrew Philips and JC Sharman, *Outsourcing Empire: How Company-States Made the Modern World* (Princeton: Princeton University Press, 2020), 23n4.

[11] Stern, *The Company-State*, 6.

[12] Philips and Sharman, *Outsourcing Empire*, 11-12.

jurisdictions with the fragmentation of the political world of early modern English men and women, and assumes that peripheral populations were motivated exclusively by issues on the periphery. It also strips the political conflicts of the period of nuance or humanity. If the King always and inevitably wanted to attack peripheral autonomy, then the political developments of the period 1660-1685 appear as incidental and unimportant. Questions about the political ideas and affiliations of the corporations themselves are similarly irrelevant.

Historians have begun to revise this picture of a binary relationship between ruler and ruled. In particular, scholars of English municipal corporations have made this point especially forcefully, with late-20th century scholars criticizing the earlier work by Trevelyan and Sacret that argued that *Quo Warrantos* were solely a product of central initiative. Thus, Robert Pickavance argued that Charles's borough policy "was Whitehall's response to local pressures for reform" and that "the boroughs, or a faction within them, pleaded for invasion."[13] John Miller likewise emphasized that the initiative for new charters during Charles's reign came not from royal policy but from "demands of those in the localities."[14] Paul D. Halliday has built upon these arguments, explaining "how local initiative not only produced charter surrenders, but also prompted those around the King to formulate an aggressive, comprehensive policy for remodeling English corporations."[15] The emergence of a royal policy against municipal corporations, we now know, was the result of a dialogue between the government and elements in the locality.

[13] Robert Pickavance, "The English Boroughs and the King's Government: A Study of the Tory Reaction, 1681-85," PhD diss., (Oxford University, 1977), 216, 217.
[14] John Miller, "The Crown and the Borough Charters in the Reign of Charles II" *The English Historical Review* 100, no. 394 (Jan 1985), 84.
[15] Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998), 195.

This interpretive framework has also been used by some to examine the decline of corporate autonomy and privileges in the wider empire, although, perhaps owing to the prominence of company-state and periphery and center historiography, it has had significantly less influence. Richard R. Johnson's "Robert Mason and the Coming of Royal Government to New England" argues that, rather than pursuing a coherent imperial policy opposed to New England's autonomy, it was "the pressures exerted by petitioners seeking redress from the Crown," principally Robert Mason, "that first drew Whitehall into sustained involvement with New England."[16] Richard S. Dunn has similarly highlighted that initial proceedings against the Somers Island Company were due to the efforts of one petitioner, Perient Trott, who drummed up "such widespread opposition" to the SIC that "the Lords [of Trade] could scarcely ignore" it.[17] Legal historian Mary Sarah Bilder has highlighted the importance of appeals from colonists in Rhode Island to imperial cohesion, as many colonists used the process "as the only remedy to balance local authority."[18] Joint stocks, with their monopoly powers, likewise came under fire from opposing groups of subjects, who often made corporate government so unstable that corporation and corporate subject alike petitioned the state for reform. Abigail Swingen has highlighted that "conflicts frequently arose over the [African Company's] political, economic, and military jurisdictions" particularly conflicts between the RAC and colonial planters, and that these conflicts forced the Crown to innovate.[19] James Vaughn has argued that Charles II and James II bolstered the power and authority of the East India Company to insulate the monarchy

[16] Richard R. Johnson, "Robert Mason and the Coming of Royal Government to New England" *Historical New Hampshire* 35, no. 4 (Winter 1980), 384.
[17] Richard S. Dunn, "The Downfall of the Bermuda Company: A Restoration Farce" *The William and Mary Quarterly* 20, no. 4 (Oct 1963), 497.
[18] Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, MA: Harvard University Press, 2004), 47-49.
[19] Abigail Swingen, *Competing Visions of Empire: Labor, Slavery, and the Origins of the British Atlantic Empire* (New Haven: Yale University Press, 2015), 8-9.

from Parliament, while the company clung to the monarchy to insulate itself from interloping.[20] For these thinkers, the story of corporate reform overseas, like the story offered by Halliday and others about municipal corporations, is a story in which local initiative plays a major part.

Yet the general picture of corporate reform in the English Empire during the reign of Charles II continues to be distorted by fragmentation into different subfields and a model of the imperial constitution which depoliticizes the peripheries and strips the center of nuance. While the work of Halliday and other scholars of municipal corporations has done much to demolish center and periphery thinking and has allowed a more nuanced picture of partisan politics to develop within England, the center and periphery framework still dominates most historiography of the wider empire, with many scholars assuming that colonists cared only about affairs which occurred in their own neighborhoods. The solution to these problems is to craft an integrated history of corporations throughout the empire, one which balances the conflicts over jurisdiction with a story of English politics. One must "think the empire whole" in terms of the political consciousness of the actors within it, while recognizing the jurisdictional fragmentation which did occur within a legally pluralist imperial constitution.[21] Only by allowing corporations and corporate subjects into the political conflicts which defined the later Stuart period can we understand the variegated policies of the monarchy towards corporations in England and the wider empire.

Crown Anxieties after the Interregnum

[20] 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, no. 1 (2018): 101-137.
[21] Steven Pincus, Tiraana Bains, & A. Zuercher Reichardt, "Thinking the Empire Whole" *History Australia* 16, no. 4 (2019): 610-637.

Three months after Charles II rode triumphantly into London on May 29, 1660, Parliament passed the "Act of Free and General Pardon, Indempnity, and Oblivion" (better known as the Act of Oblivion). The Act sought "to put an end to all suits and controversies that by occasion of that late distractions have arisen and may arise between all [Charles'] subjects" by issuing a general pardon for any English subject who had committed "treasons, misprisons of treason, murders, felonies, offences, crimes, contempts, and misdemeanors" between 1637 and 1660.[22] It was hoped that the Act would enable the restored monarch to turn back the clock to 1637, and cast the whole of the Civil Wars and Interregnum into oblivion. It did not succeed.

Why did Charles II intervene in conflicts between corporations and corporate subjects in the early 1660s? Answering this question requires understanding the tenuous position of the new monarch. Historians typically use the term "Restoration" to refer to Charles II's assumption of his father's throne, but for the monarch and his ministers, the period is perhaps better understood as the post-Interregnum. The unanimity and fanfare which accompanied Charles's return in 1660 had dissolved by 1662, as the Restoration proceeded from an idea to a reality. Much as Charles might have wished to forget, from the beginning his reign was haunted by the specter of the Civil War and the usurpation of his throne.[23] The progress of Crown intervention in corporate jurisdictions during Charles's reign was driven in large part by the lingering anxieties of rebellion and the structural weaknesses of the monarchy.

The specter of disloyalty was tied from the beginning to religious dissent. The prevailing Cavalier interpretation of the recent wars was that a cabal of religious fanatics, driven by a

[22] "An Act of Free and General Pardon, Indempnity, and Oblivion" (1660) in *Statutes of the Realm* (London: Dawsons of Pall Mall, 1963), V: 226.
[23] I therefore dissent from the Revisionist view of the Restoration (and of the Civil Wars) that sees the reign of Charles II as a period of broad unity. See for example John Miller, *After the Civil Wars: English Politics and Government in the Reign of Charles II* (London: Longmans, 2000).

mistaken zeal against episcopacy, had risen against their lawful king and cast the realm into chaos.[24] The Giles Duncombe poem, "A Counter-Blast to Phanaticks" bluntly opens with the line "The Phanaticks Sway? They stab the King!"[25]Charles was privately not shy about his feelings towards dissenters, opining to Clarendon that "rebel for rebel, I had rather trust a papist rebel than a Presbyterian one."[26] The King's worries about dissent did not necessarily entail a policy of persecution – this the indulgences – but they did demand the ministry take great care in asserting itself politically against this potentially explosive group. The problem of dissent was made unavoidable by the reality of dissenting political power, particularly in the municipal corporations. One anonymous Anglican proponent of liberty of conscience considered it obvious that "Presbyterians have generally on their side the corporations."[27] Many corporate towns had been full of dissenters for decades; others had been conquered by dissenters during the Interregnum. At the Restoration, municipal corporations were by-and-large governed by men of suspect loyalty who had, in many cases, risen to power by displacing loyal Cavaliers. The new regime's anxieties about dissenters were well-founded.

Not that most dissenters did much to assuage its fears. Riots, plots and uprisings were a fact of life for the new monarchy from the beginning. In early January 1660/1, a plot of Fifth Monarchy Men led by the cooper Thomas Venner captured St. Paul's Cathedral, holding the church for four days against "a considerable military force, refusing all quarter till most of them

[24] See for instance Richard Gaywood's engraving which served as the frontispiece to Giles Duncombe's *Scutum Regale, The Royal Buckler* (London: 1660). Gaywood's engraving promises that the return of royal government will lead to the punishment of traitors and sectaries.
[25] Giles Duncombe, *A Counter-Blast to Phanaticks* (London: 1660), 1.
[26] This from a note passed to the Earl of Clarendon early in 1662. *Notes Which Passed at Meetings of the Privy Council between Charles II and the Earl of Clarendon*, William Dunn Macray, ed. (London: Nichols and Sons, 1896), 65.
[27] *An Expedient, Or, A Sure and Easy Way of Reducing all Dissenters Whatsoever to an Exact and Sincere Obedience Both to Our Ecclesiastical and Civil Government* (London: 1662), 1.

[were] slain."[28] Venner's Uprising was a relatively small affair of some 50 men, but Charles saw it as a harbinger of things to come, evidence that in the heart of every sectary prowled the threat of renewed civil war. "Many" sectaries, the King agreed "enter into plots and conspiracies to disturb the peace of the Kingdom." These "wicked spirits… wait for opportunities to put in execution their traitorous designs." Venner may have failed, but the Council dutifully recorded the "many advices received from several parts of the Kingdom of some horrid design intended… against his Majesty's person and just government over us."[29] "By the multitude of intercepted letters from and to all the counties of England," Clarendon warned the Commons, "we may conclude the combination reached very far."[30] The King's response was clear. "We cannot be too careful by all fit means to endeavor to prevent" these horrid designs.[31] Clarendon echoed this sentiment at the opening of the Cavalier Parliament in May, warning that if Parliament failed to suppress the "seditious preachers" then "the whole kingdom shall be kindled into one general flame." To prevent this, Parliament must "provide new remedies for new diseases, and to secure the precious person of our dear sovereign from the first approaches of villainy, and the peace of the kingdom from the first overtures of sedition."[32]

Venner's Uprising was merely the first of the major rebellions of the reign. Uprisings and offenses permeated England, Scotland and Ireland. On November 16, 1661, Secretary Nicholas wrote to the Mayor of Bristol about the many "ingrateful" subjects "that have so long live[d] in rebellion, as they know not how to behave themselves as loyal subjects." The King's mercy, rather than making them "penitent," had "hardened them in their rebellious principles."[33] Charles

[28] Sir John Finch to Lord Conway (1/11/1660[/1]), TNA, SP 29/38, f 78r.
[29] TNA, PC 2/55, f 48r (1/2/1660[/1]), 49r (1/4/1660[/1]), 56v (1/18/1660[/1]).
[30] "Speech of the Lord Chancellor" (5/8/1661) *Cobbett's Parliamentary History of England, from the Norman Conquest in 1066 to the Year 1803* (London: TC Hansard, 1808), IV: 184-185.
[31] "Letter to Lords Lieutenant" (1/18/1660[/1]) TNA, PC 2/55, f 56v.
[32] Speech of the Lord Chancellor" (5/8/1661) *Cobbett's Parliamentary History*, IV: 189.
[33] "Secretary Nicholas to the Mayor of Bristol" (11/16/1661) TNA, SP 44/1, f 19r.

used similar language in a letter to the Lord Mayor and Aldermen of London in December, letting them know that he was "not ignorant, there are some active and turbulent spirits in that our City, who do not value, as they ought, our many Acts of favor and grace" which had "hardened them in their wickedness." These wards and persons had been "too faulty in former transactions, and are known opposers of all regular government, both in Church and state."[34] In November 1662 Charles wrote to his sister, the Duchess of Orleans, of "the alarm we have had of the risings here of the Anabaptists."[35] In January 1663 John Walwyn, who claimed to have been imprisoned for six years only for saying "God Bless King Charles the Second," warned Secretary Bennet of "the manifold enemies his majesty hath in Southwark" who had torn down the King's colors and defaced a loyal inscription.[36] Charles and Clarendon shared fears that English rebels allied with dissident elements in Scotland after the Restoration. In December 1660, Clarendon warned the King that "you do not think enough of the business of Scotland… the rouges in this city and kingdom depend upon troubles there." "Great stores of arms" and ammunition, he advised, had been sent into Scotland from the Dutch Republic.[37] The "Northern Rebellion" of 1663 represented perhaps the greatest threat since the Venner Uprising. At the trial for the seditious printer John Twyn, a Mr. Serjeant Morton laid out the state's case. The Northern Rebellion was "a great and dangerous design… to embroil this nation in a new war, for the destruction of the King and his government." As with the Venner Uprising, fears circulated of "an universal rebellion all England over."[38] The plotters had promised to "cut the throats of all

[34] *The King's Majesty's Letter to the Lord Mayor and Court of Aldermen* (London: 1661), 1.
[35] "Charles to the Duchess of Orleans" (11/4/1662) in Arthur Bryant, Ed., *The Letters, Speeches, and Declarations of King Charles II* (London: Cassell and Company, 1935), 136.
[36] "John Walwyn to Secretary Bennet" (1/21/1662[/3]) TNA, SP 29/67 f 186r-v.
[37] Macray, *Notes between Charles II and Clarendon*, 17.
[38] *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors, from the Earliest Period to the Present Time* (London: T.C. Hansard, 1810), VI: 521.

those that were for the King."[39] One can hardly blame Charles for fearing the activity "of many of our old enemies… notwithstanding all our mercy."[40]

The Restoration of the throne did not mean an end to old antagonisms. Sectaries and Presbyterians appeared as spectral foes to the Crown, lurking in the background and always ready to strike. In response to the threats and dangers of dissenting rebellion, Charles and his chief minister, Clarendon, needed to find ways to curb the political power of dissenters and limit their capacity to rebel.

Across the ocean in New England, the specter of rebellious dissent loomed equally large. It was well known in England that Massachusetts was avowedly Calvinist, and so aligned more with the nonconformists than with the Arminian Church of England. They had proven as much during the Civil Wars, when key colonists had returned to England to aid the Parliamentary cause.[41] One author and presumably Privy Councilor wrote in the early 1660s that "after the Independents (by complying with the army) got the start of Presbytery in England, some of them went to New England… and no sooner had these got footing but they exceeded the other in intolerable rigidness."[42] In other words, New England was home to the greatest concentration of nonconformist fanatics in the English empire. But New England's disloyalty was not merely a historical fact. The only group excluded from the Act of Oblivion were the Regicides, those who had signed the death warrant for King Charles I in 1649. No less than three of the Regicides fled to New England at the Restoration – John Dixwell, General Edward Whalley, and Whalley's son

[39] "William Moulthorpe, for Seditious Words" (10/17/1663) in James Raine, Ed., *Depositions from the Castle of York: Relating to Offences Committed in the Northern Counties in the 17th Century* (Westminster: Surtees Society, 1861), XL: 101.
[40] "The King's Speech" (3/16/1663[/4]) *Journal of the House of Lords* (London: His Majesty's Stationery Office, 1767-1830), XI: 582 (hence *LJ*).
[41] Adrian Tinniswood, *The Rainborowes: One Family's Quest to Build a New England* (New York: Basic Books, 2013), 141-3.
[42] "Certain Notes and Informations Concerning New England," (c1665?) BL, Egerton MS 2395, f 414r.

in law William Goffe. Dixwell, believed dead by English authorities, lived out the rest of his days in Connecticut under the name James Davids.[43] Whalley and Goffe meanwhile were hunted men. Captain Thomas Breedon, a trader in New England, warned the Council on Foreign Plantations that "the two hectors Whalley and Goffe" were "daily buzzing in [Massachusetts's] ears a change of government in England."[44] When the Council attempted to gently chastise the Bay Colony for its general independency, "avoiding all matters which might set them at a greater distance… [and] taking no notice of their [assistance] to Goffe and Whalley" the King balked, refusing to allow so tepid a letter to sail.[45] Charles's letter, dated June 28, 1662, reminded the colony of his "free and gracious pardon to all our subjects of that our plantation for all crimes and offences committed against us during the late troubles" but excepted "such persons who stand attainted by our parliament here of high treason… the apprehending of whom, and the transporting them into this kingdom, and delivering them into the hands of justice we do expect from your duty, affection and obedience."[46] The new King was not so sure of the loyalty and stability of his regime that he was willing to ignore the blatant disregard of his royal order, and New England's harboring of the regicides instantly earned the enmity of the restored Stuarts.

The Crown's fears of disloyalty interacted with broader structural problems facing the new regime. The Civil War had left a legacy of political and religious division which continued to plague the three kingdoms and guaranteed conflict would continue after the Restoration. The Cavaliers, who had lost so much in blood, pride, and treasure, saw their domination of the

[43] See the information in the introduction to the Dixwell Papers, printed in *Papers of the New Haven Colony Historical Society* (New Haven: New Haven Historical Society, 1900), VI: 337-341.
[44] "Narrative and Deposition of Captain Thomas Breedon" (3/11/1660[/1]) in E.B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New York* (Albany, NY: Weed, Parsons, and Co, 1853), III: 40 (hence *NY Docs*).
[45] "Report of the Council on Foreign Plantations to the King's Most Excellent Majesty Concerning the Encroachments of the Massachusetts Colony" (April 1661) BL, Egerton MS 2395, f 299v. Another copy is TNA, CO 1/15, f 100r-v.
[46] "The King to the Governor of Massachusetts" (6/28/1662) TNA, CO 1/16, f 168r.

Commons as an opportunity to exact vengeance against those they deemed responsible. This is most obvious in the case of the religious settlement. When Charles attempted to justify his *Declaration to Tender Consciences* to the Cavalier Commons in February 1662/3, he explained that he aimed "to cure the distempers and compose the differing minds that are yet among us" by dispensing with the penal laws against Protestant dissenters and Catholics. This would, he hoped, "give them no cause to conspire against the peace of" the kingdom.[47] The King's strategy of stripping dissenters of political power while preserving their liberty of conscience was intended to simultaneously reduce the causes and consequences of disloyalty. The Cavaliers rejected this advance, calling it a radical overreach and concession to nonconformists, and forced the King to rescind his proclamation and assent to the Act of Uniformity.[48] Rather than lowering the sectarian temperature, the High Churchmen of the Commons sought to raise it to a purifying boil.[49]

The intransigence of the Commons was made more unbearable by the fiscal infirmity of the Crown. Without funds, the King was at the mercy of the reactionaries in Parliament. The monarchy's dire fiscal position was clear for all to see by March 1662. Charles implored the Commons "to settle such a real and substantial revenue upon me as may hold some proportion with the necessary expenses I am at," reminding them "that there is a Republican party still in the kingdom, which have the courage to promise themselves another revolution." The only way to prevent such tumult, according to Charles, was "to let them see you have so provided for the Crown that it hath wherewithal to support itself."[50] The Commons were noticeably noncompliant

[47] "The King's Speech to Parliament" (2/18/1662[/3]) *LJ*, XI: 478.
[48] "An Act for the Uniformity of Public Prayers and Administration of Sacraments…" (5/13/1662) in *Statutes of the Realm*, V: 364-70.
[49] My impressions of the Restoration have been shaped by Tim Harris's *Restoration: Charles II and his Kingdoms* (New York: Penguin Books, 2005), chapter 1, and by Ronald Hutton, *The Restoration: A Political and Religious History of England and Wales, 1658-1667* (Oxford: Clarendon Press, 1985).
[50] "The King's Speech to the Commons" (3/1/1661[/2]) *CJ*, VIII: 377.

with Crown requests. The gentry which dominated the Commons were hostile to raising taxes on their lands, and hesitated to purchase the monarch's political independence with their gold. Charles's efforts to placate the dissenters with his *Declaration* further discouraged the Cavaliers in Parliament from insulating him from their influence.

Charles II's attempt to relegate the previous quarter century to the dustbin of history was doomed from the beginning because the King himself could not forget. The persistent disloyalty of dissenters which manifested in the Venner and Northern plots, and the partisan nature of the settlement offered by the Cavalier Parliament, assured that the restored monarchy would forever be on alert, buffeted by a tight-fisted Commons on the one hand and sectarian rebels on the other. The quest for financial and political stability would be driven by the Crown's desire to wriggle out of the precarious position it found itself in after the Interregnum.

The Lamentations of the Corporate Subjects

The Crown's reservations about the loyalty of dissenters and the corporations they dominated did not emerge in a vacuum. At every step, it was carefully nurtured by people subject to the government of these corporate bodies. Corporate subjects voiced their complaints in volumes of petitions to the King and letters to state officials. These petitions sought redress for specific grievances, but were consistently premised on the idea that the Crown could and should intervene in corporations to protect the rights and liberties of English subjects, because corporate usurpation was to the detriment of the subject and endangered the monarchy. Three broad kinds of complaints fueled anti-corporate petitions in the early 1660s: religious oppression; loss of office and property; and unjust government.

Religious oppression was particularly acute in New England, where civil and ecclesiastical liberty were fused by law in the most populous colony, Massachusetts Bay. The laws of Massachusetts gave the General Court power to approve or reject churches that did not gather "in a Christian way with due observation of the rules of Christ revealed in his word." "The civil authority" likewise "hath power and liberty to see the peace, ordinances, and rules of Christ be observed in every Church according to his word."[51] Though technically not a theocracy insofar as civil authorities had power over religious ones, in practice these prohibitions meant that only Calvinist churches received state sanction and were considered legitimate forms of worship. Other religious denominations were often explicitly prohibited by statute. Anabaptists were considered "the incendiaries of commonwealths and the infectors of persons in main matters of religion, and the troublers of Churches."[52] Ecclesiastical hierarchies and presbyters were likewise outlawed,[53] and Quakers, "a cursed set of heretics," were barred from entry into the colony.[54]

Living in and around the Bay Colony thus proved difficult for non-Congregationalists. Winthrop's dream of establishing an expansive godly commonwealth meant that dissenters from Calvinist orthodoxy often suffered for their beliefs.[55] After the Restoration, many turned to Charles II for deliverance from religious oppression. A group of Quakers petitioned the new King in 1661 complaining of "several cruel and inhuman sufferings" inflicted upon them by the

[51] *The Book of the General Lawes and Libertyes Concerning the Inhabitants of the Massachusetts* (Cambridge, MA: Printed by the General Court, 1648), 18, 20.
[52] *The General Lawes and Libertyes Concerning the Inhabitants of the Massachusetts*, 1.
[53] *The General Lawes and Libertyes Concerning the Inhabitants of the Massachusetts*, 19
[54] Nathan B. Shurtleff, Ed., *Records of the Governor and Company of Massachusetts Bay in New England* (Boston: William White, 1854), IV-I: 277.
[55] See for example the cases of Anne Hutchinson or Thomas Morton. Hutchinson is a well-known figure. A recent study of her life and beliefs is Marilyn J. Westerkamp, *The Passion of Anne Hutchinson: An Extraordinary Woman, the Puritan Patriarchs, and the World they Made and Lost* (Oxford: Oxford University Press, 2021). For Morton, see Peter C. Mancall, *The Trials of Thomas Morton: An Anglican Lawyer, his Puritan Foes, and the Battle for a New England* (New Haven: Yale University Press, 2019).

General Court. In New England, the petitioners charged, "28 persons were cruelly wipt… all which were freeborn Englishmen, only for coming into that government… several were imprisoned and had great fines taken from them" while "twenty-two were banished upon pain of death" four of whom returned "and were put to DEATH."[56] The "tyranny and oppression" of those in power in Massachusetts meant that "multitudes of his majesty's subjects have been most unjustly and grievously oppressed, contrary to their own laws and the laws of this realm." They requested that the King, "would be pleased to own them and relieve their oppression" and "to establish the law of England amongst them and to appoint a governor in general over them."[57] The Quakers were thus among the first to urge the newly restored monarchy of the necessity of a general governor over New England. They were convinced of this necessity by their own experience of clashing with the godly magistrates of Massachusetts. Charles, strongarmed by the Cavaliers in his Parliament, saw little to gain from protecting persons "whose principles [are] inconsistent with any kind of government." The monarch's first letter to Massachusetts following the Restoration expressed his content that the colony had made "a sharp law against them."[58] It would be some time before the Quakers would receive any protections from the Stuarts.

If the Quakers failed to secure royal intervention on their behalf, they did at least lend their voice to the chorus condemning the Bay Colony's religious bigotry. They were joined by the pluralistic community of Rhode Island and Providence Plantations, which frequently referred to its populous and Congregationalist neighbor in its petitions for incorporation following the Restoration. John Clarke, the physician and Baptist minister who co-founded Rhode Island and

[56] "A Compendious Representation of Several Cruel and Inhuman Sufferings Inflicted Upon the People of God Called Quakers" (5/17/1661) TNA, CO 1/15, f 113r.
[57] "The Humble Petition of those who have been sufferers in New England on behalf of themselves and thousands there" (5/17/1661) TNA, CO 1/15, f 56r.
[58] "The King to the Governor of Massachusetts" (6/28/1662) TNA, CO 1/16, f 168v. Charles cited the recent Quaker Act when expressing his feelings.

petitioned most aggressively for its incorporation, had experienced the oppressions of the Bay Colony firsthand. Clarke had sided with Anne Hutchinson during the Antinomian crisis before leaving Massachusetts and helping to found Newport, Rhode Island.[59] In 1651 he was jailed and fined for acting as a Baptist missionary in Massachusetts, when he penned his *Ill News from New-England: Or, a Narrative of New-England's Persecution* in which he laid out how he and fellow missionaries Obediah Holmes and John Crandall were imprisoned and sentenced "merely for conscience towards God." The persecution of Massachusetts, Clarke maintained, produced "outrageous murderings and bloodsheddings" "under a specious and religious pretense of doing God good service" by "oppress[ing] and slay[ing] his innocent servants and children, and" forcing "men to that which their minds and consciences are not persuaded unto, which is worse than idolatry."[60] Like many of the early settlers of Rhode Island and Providence Plantations, Clarke was had bristled as a subject of the Bay Colony.

However, it was not enough to move 50 miles south. By the 1650s Massachusetts had begun expanding as its population continued to grow.[61] Rhode Island was, furthermore, boxed in on all sides by hostile English neighbors – Connecticut to the west, Plymouth to the East, and Massachusetts to the North. When Rhode Island petitioned the Crown to secure the colony's title to a large tract of Western land known as the Narragansett Territory, Governor William Brenton reminded Charles II of "the envious and subtle contrivances of our neighbor colonies round about us," who, prior to the colony's grant of a royal charter in June 1663, "were in a

[59] See Sydney V. James, "Clarke, John (08 October 1609-20 April 1676)" in *American National Biography*, February 2000, https://doi.org/10.1093/anb/9780198606697.article.0100162. "Petition of John Clark to the King" (1/29/1660[/1]), "The Humble Petition and Representation of John Clarke on the Behalf and in the Name of the Purchases and Free inhabitants of Rhode Island and of the Rest of the Colony of Providence Plantations in the Narragansett Bay in New England" (2/5/1660[/1]) "Petition of John Clarke to the King" (3/28/1661) TNA, CO 1/15, ff 7r, 14r, 69v-70r.
[60] John Clarke, *Ill News from New-England* (London: Henry Hills, 1652), 1, 74.
[61] "Queries and Objections Against the Massachusetts Encroaching Power Upon Several Other Proprieties" (1659?) BL, Egerton MS 2395, f 199r-201r.

combination united together to swallow us up." The charter stretched "forth your princely and potent hand, for our speedy relief and to puck us as a spoil out of their teeth" and established boundaries "beyond which without too apparent a casting of the yoke of allegiance they cannot pass."[62] The oppressions which had led migrants to settle Rhode Island remained in the memory of the colony just as they informed its incorporation. It was Clarke, who had experienced Massachusetts's religious oppression for himself, who served as agent for Rhode Island at the Restoration, and who petitioned the Crown for incorporation. When Clarke sought to bring the settlements of Rhode Island and Providence Plantations "under the wing of your royal protection" and preserve the colony "in all desirable freedom and liberty… from all others, whether English or Indians," it was Massachusetts and its religious despotism that he feared.[63]

Yet perhaps the squeakiest wheel in New England in the early 1660s was an Anglican settler and trader named Samuel Maverick. Maverick had settled in New England in 1624 as part of Sir Ferdinando Gorges and the Council of Plymouth's early attempt to populate the region.[64] Like all non-Congregationalists, Maverick's civil liberties were barred by statute, as "no person being a member of any Church which shall be gathered without the approbation of the magistrates and the said Churches shall be admitted to the Freedom of this Common-wealth"[65] In May 1646 he joined with John Child and others in submitting *The Remonstrance and Humble Petition* to the General Court in Boston, in which the petitioners pleaded for Massachusetts to conform to "the fundamental and wholesome laws of our native country," to extend "civil liberty

[62] William Brenton, "Petition from Rhode Island to Charles II" (c. 1666-1669) Bodleian Library, MS Clarendon 74, f 257r.
[63] "Petition of John Clarke on behalf of Rhode Island" (1/29/1660[/1]), "The Humble Petition and Representation of John Clarke on the Behalf and in the Name of the Purchases and Free inhabitants of Rhode Island and of the Rest of the Colony of Providence Plantations in the Narragansett Bay in New England" (2/5/1660[/1]) TNA, CO 1/15, ff 7r, 14r.
[64] Carol Sue Humphrey, "Maverick, Samuel (1602?-1676?)" *American National Biography*, February 2000, https://doi.org/10.1093/anb/9780198606697.article.0100587.
[65] *The General Lawes and Libertyes Concerning the Inhabitants of the Massachusetts*, 18

and freedom … to all truly English" and freedom of worship for members of the Church of England.[66] When the General Court rejected the petition and John Child appealed to the Long Parliament, Maverick, as a fellow signatory, was arrested and fined 150 l.[67] Maverick ultimately sold his land on Noddle's Island to pay the fine, but Massachusetts had gained a sworn enemy. Religious oppression or the fear thereof was also present in petitions against municipal corporations governed by dissenters, although state support for the Church of England prevented legal discrimination. A petition from the inhabitants of Maldon noted the injustice that members of the Established Church would have to be governed by "men of schismatical congregations."[68] Throughout the empire, the contest over corporate authority was blended with other conflicts in Restoration politics.

Some of the most common grievances of corporate subjects were those having to do with material benefit. Corporate infringements on landholdings and office were hotly contested by corporate subjects, who readily complained to the Crown of the attacks on their English liberties and who slyly (though not disingenuously) connected the usurpation of their rights to the Civil Wars and the Crown's current unease. Perhaps the most common petition for royal intervention in municipal corporations in the early 1660s was about offices. Complainants claimed that they had previously possessed offices, or otherwise desired them for their loyalty during the Civil Wars, while simultaneously arguing that the current corporate governments, which had taken power during the 1640s or 50s, were usurpers of royal authority and still opposed to the monarchy. As early as August 1660 petitions to the King had begun rolling in seeking his

[66] John Child et al., "The Remonstrance and Humble Petition" in Peter Force, Ed., *Tracts and Other Papers, Relating Principally to the Origin, Settlement, and Progress of the Colonies of North America, from the Discovery of the Country to the Year 1776* (Washington, DC: Wm Q Force, 1846), IV, no 3: 10-13.
[67] Barbara Ritter Dailey, "Maverick, Samuel (c. 1602-1670x76)" in *Oxford Dictionary of National Biography*, September 17, 2015, https://doi.org/10.1093/ref:odnb/71102.
[68] Petition from Maldon (1660) quoted in William Albert Hayden Schilling, "The Central Government and the Municipal Corporations in England, 1642-1663" (PhD Diss., Vanderbilt University, 1970), 148-9.

intervention in municipal governments. William Bishop and Edward Blane, two former aldermen for the Corporation and City of Lincoln, claimed that they were "plundered, imprisoned, and sequestered" by the Corporation for their allegiance to Charles I in the early 1640s. They were still "forcibly kept out of their aldermen's places, even by those their violent enemies, who [did] still unjustly possess their said places by the connivance of the magistrates there." Their proposed remedy would have struck Whig historians like McCaulay and Trevelyan as royal overreach: "your petitioners do humbly beseech your majesty to command your corporation of Lincoln to admit your petitioners peaceably to their former rights, and places of aldermen." Bishop and Blane promised that "their relief" would enable them "to prevent mischief, and do service for your majesty."[69]

That same month, Samuel Rychaut, of Bristol, submitted his first of many petitions to the King for the office of Town Clerk. Rycahut's family had suffered "for their loyalty in the time of the late war," and he expected sought office as a way of restoring his share of the family fortune. He promised that, should he be installed, "your majesty's royal dominion over this nation" would be "supported by persons… eminent in loyalty… [who] will secure your majesty's just rights and interest therein."[70] Bristol was at that time under fire for "contempt of and disobedience to your majesty's late order for the displacing of such magistrates and officers as do illegally exercise an usurped power and authority" Rycahut's constant reminders that Bristol's current Town Clerk, Robert Aldworth (alternatively, Alder), exercised his power "during the late… usurpation… without any legal election or just pretence thereunto" only served to highlight the ongoing disloyalty of the Bristol Corporation.[71] Aldworth, Rychaut alleged, had been brought in as Town

[69] "Petition of William Bishop and Edward Blane" (Aug 1660) TNA, SP 29/13, f 105r.
[70] "Humble Petition of Samuel Rychaut" (Aug 1660) TNA, SP 29/13, f 130r.
[71] "Petition of Samuel Rychaut [alias Rycaut]" (Oct 1660) TNA, SP 29/20, f 169r.

Clerk following a purge of "the honest members of the corporation" in 1646 and had given "his vote for making Oliver King."[72] Charles ordered that Rychaut should receive the post, but recanted the order and left the decision up to the Mayor of Bristol, with Secretary Nicholas writing that though "many… speak not well of [Aldworth], or of his principles" the man was an unknown, and "his majesty would not have a known and loyal man displaced."[73] The Mayor, Henry Creswick, though himself of "unquestionable" loyalty, kept Aldworth, his relation by marriage, in office.[74] Rychaut warned that this "obstinacy" on Bristol's part to hold to a position that the King had promised Rychaut would disappoint "the reproach of their disobedience" and encourage further disobedience in the corporation.[75] Rychaut's repeated attempts to secure the office of Bristol Town Clerk relied on a strategy of undermining Britsol's professions of loyalty following the Restoration, sowing doubt that the "government of that noble city" was "in the hands of his Majesty's most loyal subjects."[76]

Examples of this strategy abound. A group of former Aldermen of Leeds, led by Benjamin Wade, claimed that the current aldermen had come to power during the 1640s, displacing the petitioners and leading the city into conflict with Charles I. Wade and his co-complainants prayed "that your majesty would be graciously pleased to take into your

[72] Samuel Rychaut, "A Short View of the Proceedings of Mr. Robert Aldworth, present Town Clerk of Bristol, touching the manner of his Acquiring and Exercising that Place" (1661) TNA, SP 29/48, f 110r.
[73] "Secretary Nicholas to Mayor of Bristol" (11/16/1661) TNA, SP 44/1, f 19v.
[74] "Richard Ellsworth to Secretary Nicholas" (4/17/1661) TNA, SP 29/34, f 112r; also Rychaut, "A Short View of the Proceedings of Mr. Robert Aldworth, present Town Clerk of Bristol, touching the manner of his Acquiring and Exercising that Place" (1661) TNA, SP 29/48, f 110r. Aldworth was likely also protected by his royalist kinsman Sir Humphrey Hooke. MW Helms & John P. Ferris, "ALDWORTH, Robert (c.1624-76), of Broad Street, Bristol and Lincoln's Inn" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/aldworth-robert-1624-76. Creswick had himself petitioned for the removal of numerous "disloyal persons" from the Bristol Common Council, but made an exception for his in-law. "Humble Petition of Henry Creswick, William Colston, Nathaniel Cale, Richard Grigson, and John Thornton, to the "Petition of Henry Creswick, Nathaniel Cale, Richard Grigson, and John Thornton, to the King" (9/10/1660), "List of Persons who for Disloyalty should be removed from the Common Council of Bristol" (9/10/1660) TNA, SP 29/14, f 124r, 126r.
[75] "Petition of Samuel Rychaut" (1661) TNA, SP 29/48, f 108r.
[76] "Secretary Nicholas to Mayor of Bristol" (11/16/1661) TNA, SP 44/1, f 19r.

consideration the great consequences of having a sober, sufficient, and well-disposed magistra[cy] in your said corporation of Leeds" and to "establish the said corporation in such a manner and place such persons in authority as … shall seem most fit for your majesty's service and the good of the said corporation."[77] The inhabitants of Maldon lamented that "we cannot hope to enjoy the full influence of your reign as long as the government of this corporation is in the hands of such persons whose loyalty to you (some of whom were in arms against you at Worcester…) is notoriously evident."[78] Some of the burgesses of Wallingford similarly claimed that they had been "illegally put out of authority, and disenfranchised of their just and ancient privileges, only for their loyalty" to Charles I. In their place "several officers and soldiers of the late Parliament's Army and other disaffected persons" had been installed, some of whom had "given out most dangerous and seditious speeches against your sacred majesty, since the Parliament voted your indubitable rights and throne." The only way to ensure that "the power and government of your town may for the future be rescued forth [from] the hands of your majesty's enemies, and the trust thereof reposed in honest and loyal persons" was to restore the displaced burgesses. Not coincidentally, the petitioners added, doing so would also redeem them "from the slavery and tyranny" under which they suffered "during the late usurpation."[79] The Mayor of Preston, James Hodgkinson, and several burgesses thereof petitioned in 1661, advising that "during the late times of war and rebellion, divers persons who were… against your majesty's royal father and yourself have… turned out several of your majesty's most loyal subjects… and got themselves in to be the said principal burgesses and common councilmen." They proposed and requested that "the aforesaid persons may be removed… and other

[77] "Petition of Benjamin Wade et al." (1/17/1660[/1]) TNA, SP 29/28, f 136r
[78] Petition from Maldon (1660) quoted in Schilling, "The Central Government and the Municipal Corporations," 148-9.
[79] "Petition of Some of the Burgesses of Wallingford" (Nov? 1660) TNA, SP 29/22, f 24r.

burgesses… who have more loyalty and affection to your majesty elected and placed in the same."[80]

In the year or two following the Restoration, petitioners against English municipal corporations, who complained most often of loss of office and usurpation, linked the redress of their grievances with the stability of the restored monarchy. The petitioners preyed upon the anxieties of the Crown, leaning into their Cavalier credentials and highlighting the disloyalty of their corporate governments. This was certainly a rhetorical strategy, but it was not *merely* rhetoric. In many cases, these petitioners did come from families that had suffered since 1642 for their loyalty to the Stuarts. In their view, the previous 18 years had been a gross usurpation of their liberties. There is no reason to doubt the sincerity of their move to equate the redress of their grievances with the stability of the new regime – from their perspective, it surely made sense that the Restoration should bring loyal men and Cavaliers back into power, because it was the Roundheads' effective seizure of power that had undone the previous reign and thrown the nation into disarray. Cunning though this rhetorical strategy was, it was certainly genuine.

In New England, the chief conflict with corporations over wealth in this period had to do with the aggressive expansion of Massachusetts Bay into land claimed by virtue of other patents. The two figures who complained most consistently of the infringements of their property rights were a pair of patentees named Ferdinando Gorges and Robert Mason. Gorges held his grant to

[80] "Petition of James Hodgkinson, Mayor of the Borrough of Preston, et al." (1661) TNA, SP 29/48, f 168r. The quotations I've offered here represent a fraction of the available material. See for instance: "Petition of Dr. Matthew Nicolas to the House of Lords" (6/20/1660) TNA, SP 29/4, f 138r; "The King to Thomas Grant, Alderman, and the Burgesses of Grantham" (July? 1660) TNA, SP 29/8, f 168r; "Petition of Henry Creswick, Nathaniel Cale, Richard Grigson, and John Thornton, to the King" (9/10/1660), "List of Persons who for Disloyalty should be removed from the Common Council of Bristol" (9/10/1660) TNA, SP 29/14, f 124r, 126r; "Humble Petition of Arthur Walley, Mayor of the City of Chester" (Nov 1660) TNA, SP 29/22, f 22r; "Petition of Divers of the Aldermen and Inhabitants of the Town of Newmark-Upon-Trent" (Feb 25-Mar 4, 1660/1) in *The Kingdom's Intelligencer*, #9 (2/25-3/4/1660[/1]); "Richard Ellsworth to Secretary Nicholas" (4/17/1661) TNA, SP 29/54, f 112; "Petition of Samuel Rychaut" (May 1661) TNA, SP 29/56, f 120A.

Maine by virtue of his grandfather, Sir Ferdinando Gorges, while Mason inherited his claim from his grandfather, John Mason. Mason and Gorges began petitioning the English government to rein in Massachusetts Bay during the Protectorate, when Massachusetts had first entered "the Province of Maine by power."[81] In a printed memo to "the Right Honorable Parliament of the Commonwealth of England," both men joined Edward Godfrey, Governor of Maine, in condemning the expansion of the Bay Colony. "By strong hand and menaces," they wrote, Massachusetts had endeavored "to bring all or the most part of that vast country under their power and subjection, have subverted the ancient government, deprived us of our privileges, patents, and interests therein, and imposed on us an oath of fidelity to their state without any relation to England." This subversion was not simply a matter of justice – Mason and Gorges well recognized how lucrative these provinces could be. The petition recounted the "great charges" with which their grandfathers had procured their patents, and boasted that despite "difficulties and charges to loss of nigh 100,000 l." they had "propagated and populated" the region.[82] They clung to these patents for the profit and gains they expected thereby.

Mason and Gorges continued to petition the government after the Restoration. In April 1661, Gorges complained how "the Massachusetts, taking advantage of the late rebellion here did… without any color of right encroach upon all or the greatest part of the … premises descended unto your petitioner." Under the government of Massachusetts, tenants who had previously paid rents to Gorges had begun to claim their lands "as Lords and proprietors." Gorges pleaded with the King to restore the province to him and oust the corporate interlopers before "your petitioner's grandfather's vast expense" became "utterly lost, and his patent…

[81] "Queries and Objections Against the Massachusetts Encroaching Power Upon Several Other Proprieties" (1659?) BL, Egerton MS 2395, f 200v.
[82] "Petition of Edward Godfrey et al," (1659) TNA, CO 1/13, f 189v-190r.

rendered unprofitable."[83] In February 1662, Mason followed suit, filing a report along with several other Doctors of Laws proving "by testimony of witnesses and [perusal] of their letters patents" that Massachusetts had aggressively seized his lands. By Mason's calculations, he had "been damnified in his estate and plantations to the value of 15,000 pounds and upwards."[84]

As corporate subjects of English municipalities had done, subjects in New England couched their petitions for royal intervention in the idiom of disloyalty. By exploiting Massachusetts Bay's connection with the Cromwellian regime and with dissent more broadly, petitioners were able to illustrate that royal intervention was not only a benefit to them, but a necessity for the security of the restored monarchy. Samuel Maverick perfected this art in his campaign against the Massachusetts Bay Company. In 1660 he wrote *A Brief Description of New England and the Several Towns Therein, Together with the Present Government Thereof*, in which he detailed how the Governor and Council required all men to "acknowledge the Church of England to be erroneous and to renounce it" in order to be admitted a freeman, by which a "great number of his Majesty's loyal subjects there never enjoyed those privileges intended by his royal father in his grant." Maverick presented this paper to his correspondent Edward Hyde, the future Earl of Clarendon and Charles II's Lord High Chancellor.[85] In the early 1660s, in petitions to the King and letters to Clarendon, Maverick consistently linked the premises which formed the common rhetoric of corporate subjects throughout the empire: the corporation of Massachusetts Bay had usurped English liberties and debarred "many thousands… of your majesty's loyal subjects" of "all liberty, civil and ecclesiastical" and worse still, the corporation

[83] Petition of Ferdinando Gorges to the King, (4/4/1661) TNA, CO 1/15, f 59v.
[84] Report of Robert Mason et al, (2/15/1661[/2]) TNA, CO 1/16, f 37r-v.
[85] Samuel Maverick[e], *A Brief Description of New England and the Several Towns Therein, Together with the Present Government Thereof* (Boston: David Clapp & Son, 1885), 17. In a letter to Clarendon in 1662, Maverick mentions "having formerly presented to your honor my general observations of the nature of the place, and constitutions of the several government in the northern parts of America." "Maverick to Clarendon," (1662) *Collections of the New-York Historical Society* (New York: New York Historical Society, 1869), II: 19.

had "hitherto gone on in a constant course of disloyalty."[86] Maverick recited how during the Civil War Massachusetts had "ordered the taking down of the King's Arms and setting up the State's" and compelled "every commander of a vessel that went out… to enter into bond not to have any commerce with any place then holding out for the King."[87] Other petitioners against Massachusetts Bay employed similar rhetoric. Robert Mason warned that for many years Massachusetts had "endeavored to model and contrive themselves into a free state or common wealth without any relation to the Crown of England," adding that some "have been so bold as publickly to affirm that if his majesty should send them a governor that… [they] would oppose him, and others have said that before their provinces should submit to any appeal to England, they would sell their colony to the King of Spain."[88] Nor were the only petitioners against Massachusetts's encroachments English. Although the petitions have not surfaced, references in the King's letters to the colony and in the Commissioners' instructions make clear that Charles had "received addresses" containing "complaint, or at least insinuation of some injustice or hard measure exercised towards them from our colonies."[89] When they spoke to the Commissioners, the Narragansetts "gave a long petition… complaining of many acts of violence and injustice which Massachusetts had done to them."[90]

The most egregious example of Massachusetts' independence streak, from the Crown's perspective, was one that Charles likely initially learned of through Samuel Maverick. In his *Brief Description of New England*, Maverick explained how the Oath of Allegiance and Supremacy had never been offered to any in New England. Instead, Massachusetts had its own

[86] "Petition of Samuel Mavericke to the King" (8/1/1663) TNA, SP 44/13, p 356; "Maverick to Clarendon" (1662) *Collections of the New-York Historical Society*, II: 25.
[87] Maverick, *A Brief Description of New-England*, 18-19.
[88] "Report of Robert Mason et al," (2/15/1661[/2]) TNA, CO 1/16, f 37v.
[89] "Charles II to the Governor and Council of MA" (4/23/1664) *NY Docs*, III: 62. See also "Instructions to the King's Commissioners to Massachusetts" (4/23/1664) *NY Docs*, III: 53.
[90] "Reports of the Commissioners for New England" (1665) BL, Egerton MS 2395, ff 426r-441v.

oath that it imposed on all freemen. Swearers acknowledged they were "subject to the government" of the "Commonwealth" and swore "to be true and faithful to the same… [and also] to maintain and preserve all the liberties and privileges thereof, submitting … unto the wholesome laws made and established by the same."[91] The Oath was a great offense to the restored Stuart, suggesting as it did that the "liberties and privileges" as understood by Massachusetts were sacred in themselves, and not extensions of royal grace. Thomas Breedon, a harsh critic of Massachusetts, explicitly linked the Bay Colony's Oath to rebellion against royal authority. "If any speak for the king's interest, they are esteemed as against their frame of policy or government, and as mutineers."[92] In Massachusetts, it seemed, loyalty to the colony took precedence over allegiance to the monarchy. In his letter to Massachusetts Bay of June 28, 1662, Charles ordered that "all laws and ordinances as are now or have been during those late troubles in practice there, and which are contrary and derogatory to our authority and government… be annulled and repealed," that "the Oath of Allegiance be here forward duly observed" and "that the administration of justice be in our name."[93] Over the coming decades, Massachusetts's insistence on its right to administer its own Oath would be a constant source of friction with Charles Stuart.

The consequences of New England's disloyalty for Charles's restored monarchy could be disastrous. Thomas Breedon, who had testified against the colony in March 1660/1, warned that the distinction between "freemen and non-freemen, members and non-members, is as famous as Cavaliers and Roundheads was in England, and will shortly become as odious." The tensions in

[91] Maverick, *A Brief Description of New-England*, 18-19. Thomas Breedon similarly flagged this oath as a danger, but did not provide the text, saying only that "whosoever shall treacherously and perfidiously endeavor the alterations and subversion of their frame of policy or government fundamentally, shall be put to death." "Narrative and Deposition of Captain Bredon" (3/11/1660[/1]) *NY Docs*, III: 40.
[92] "Narrative and Deposition of Captain Bredon" (3/11/1660[/1]) *NY Docs*, III: 40.
[93] "The King to Massachusetts Bay" (6/28/1662) TNA, CO 1/16, f 168v.

New England, according to corporate subjects opposed to the corporation of Boston, threatened to ignite a new civil war, an especially dangerous prospect, as Breedon pointed out, because Massachusetts and New England were "the key to the Indies, without which Jamaica, Barbados, and the Carriby Islands are not able to subsist."[94] Without the foodstuffs provided by Massachusetts Bay and the rest of New England, the burgeoning slave plantations of the Caribbean could never become the monocropped sugar factories the Crown desired. The disloyalty of Massachusetts had the potential to upset the whole Atlantic empire.

In the years immediately following the Restoration, then, corporate subjects under the jurisdiction of municipal and colonial corporations petitioned the Crown for a variety of reasons having to do with religious oppression, material wealth, loss of office, and governmental usurpation. In all cases, the philosophy underlying their petitions for state intervention was a belief that the corporation was in some way acting in defiance of the rights and liberties of English subjects – whether to property, to practice of the established religion, or to just government. Corporate subjects suited their petitions to their audience by proclaiming the disloyalty of the corporate governments they were in conflict with, and by highlighting the danger disloyal corporations posed to the subject and to the monarchy. These petitions heightened the Crown's fears of unrest, and pushed the new King to intervene to secure his reign. It is to that first round of interventions in the early 1660s that we now turn.

"Temporary Reformations": The First Interventions

[94] "Narrative and Deposition of Captain Bredon" (3/11/1660[/1]) *NY Docs*, III: 39-40. Breedon's claim about New England's utility to the Caribbean colonies is well documented in recent scholarship, especially Wendy Warren, *New England Bound: Slavery and Colonization in Early America* (New York: Liverlight, 2016), chapter 2.

The Crown thus sought to intervene in corporate affairs to ensure its own security. Niggling doubts about the loyalty of dissenters, fanned constantly by corporate subjects of dissenting governments, prompted the Crown to consider how best to secure itself against rebellion. At the same time, fiscal pressures on the monarchy forced the Crown to seek extraparliamentary sources of revenue. Yet if it was clear that the Crown must intervene in corporate governments, there was considerable ambiguity on how best to resolve the issue. Several royalists during and after the Interregnum had called for the wholesale extirpation of corporate autonomy. Henry Cavendish, the future Duke of Newcastle and a tutor to Charles II, had condemned corporate charters as municipal exemptions to the laws of the realm. As such, he argued, "every corporation is a petty free state against monarchy" more responsible for the "late disorders" than anything else.[95] James Howell, a royalist who had been imprisoned by the Parliamentarians during the Civil War, published a collection of his letters after the Restoration. In a letter to Cardinal Francisco Barberini, Howell warned that corporations were breeding grounds for Puritans, and naturally inclined their inhabitants towards popular government. According to Howell, "the greatest solecism in the policy of this Kingdom, is the number of" corporations.[96] Thomas Hobbes, writing in his *Leviathan*, listed "the immoderate greatness of a town" as among the great infirmities of commonwealths, and warned that "the great number of corporations… as it were many lesser commonwealths" capable of "disputing against absolute power" were "like worms in the entrails of a natural man."[97] Hobbes's *Behemoth* similarly lamented that the cause of the Civil Wars was that the King's enemies "had the command of the

[95] Henry Cavendish, "Advice to King Charles II" (1660) Bodleian Library, MS Clarendon 109, 47. I am grateful to Gabriel Groz for bringing this citation to my attention.
[96] James Howell, "An Account of the Deplorable and Desperate Condition that England Stands In, Sent from London… to Lord Francisco Barberini…" (Aug 12, 1647) in James Howell, *Divers Historical Discourses of the Late Popular Insurrections in Great Britain and Ireland* (London: Richard Royston, 1661), 301-2.
[97] Thomas Hobbes, *Leviathan*, Edwin Curley, ed. (Indianapolis: Hackett, 1994 [1651]), Book II: Chapter XXIX: 218.

purses of the City of London, and of most Cities and Corporate towns in England, and of many particular persons besides."[98] Nor was this hostility to corporate governments only evident in England. Samuel Maverick suggested "that a General Governor be sent with all convenient speed" to New England, who would "settle the bounds of every patent" and "see justice done impartially."[99]

There was, then, a considerable trend in royalist thinking that was opposed to corporate governments on principle, and which actively pined for the extension of royal power at the expense of corporate autonomy. The proposals here laid out read more like the policy of Charles's government in the 1680s than those enacted by during the Clarendon Ministry of the 1660s. The Crown took three major actions to enhance its own power and stability vis-à-vis corporations in the early 1660s. Two of these steps, the Act for the Well Governing and Regulating of Corporations and the New England Commission, were direct responses to petitions from corporate subjects of English municipalities and the New England colonies. They were also attempts to shore up royal authority in these corporations by dispossessing opponents of jurisdiction, and by curtailing the independency of these bodies politic. The third step, that of chartering and enhancing the power of joint stock trading corporations, particularly the East India and Royal African Companies, aimed to provide an extraparliamentary source of revenue and give the Restored monarchy some independence from the Cavalier Parliament. We have seen that the King was worried for the stability of his throne in the aftermath of the Restoration, and that corporate subjects of municipalities and the plantation colonies of New England, most centrally Massachusetts Bay played up the dangers these corporations posed to that stability in

[98] Thomas Hobbes, *Behemoth: Or, the Long Parliament*, Paul Seaward, ed. (Oxford: Clarendon Press, 2010 [1681]), 108.
[99] "Maverick to Clarendon" (1661?) *Collections of the New-York Historical Society*, II: 26.

their petitions to the King. Thus, in a sense, we know *why* the King supported taking these three steps to secure his authority. But perhaps the more interesting question at this juncture is why the King took these *specific* steps to secure his authority. Why didn't the King, as he would later in the reign, turn towards *Quo Warranto*, royal placement, and other such radical reforms? Why, in sum, were the reforms of the early 1660s so temperate?

I: The Corporation Act

At the Restoration, the status of every chartered municipality in England was in doubt. Many towns had allied with the Parliamentarian cause during the Civil Wars, and all of them had become tools of the Commonwealth government during the Interregnum. It was not a stretch to say that every corporation had committed acts of treason against the Stuarts. Corporations thus began the new reign on rocky footing. They were largely staffed with nonconformists and allies of the Commonwealth, and in many cases, as the petitions mentioned above evince, these corporators seized power by displacing royalists. At the Restoration, then, the many municipal corporations of England set about confirming their charter privileges. Bristol was especially swift, tacking its request for ratification of "those immunities and privileges which have been granted to us by your majesty's predecessors" to a congratulatory petition in May, 1660.[100] The borough of St. Edmondsbury conceded that "during the late unnatural troubles, many things have been acted and done by the said corporation not pursuant to or justifiable by any of the said letters patents" for which the petitioners requested the King "to renew the charter of incorporation." The mayor, aldermen, and burgesses of Doncaster likewise pleaded that Charles would "confirm their said charters and privileges." In Denbigh, the Aldermen, Bailiffs, and Burgesses asked that "for the clearing and avoiding of such ambiguities and casualties as may

[100] "The Humble, Hearty, and Congratulatory Petition of the Mayor, Aldermen, and Common Council of your Highness's City of Bristol," (5/29-31/1660) TNA, SP 29/1, ff 43v-44r.

arise" all the "franchises, privileges and immunities" which they possessed by virtue of their letters patent might be "granted, ratified, and confirmed to them."[101] Legally, if not practically, the Restoration presented an opportunity to completely do away with corporate jurisdictions in England.

The Corporation Act rejected this approach. The Bill would secure corporate charters by sending commissioners to each municipality to purge disloyal members. Its legislative history is fascinating for the light it sheds on competing visions of corporate reform in the early 1660s. The Bill was read for the first time in the Commons on June 19, 1661, and from the beginning it was intensely controversial. On June 20, it was sent to committee by a vote of 185 to 136. When The question was put that "all members of this House… that shall come to the said committee, shall have votes" the House resolved in the Negative – only named members of the Committee would be allowed to vote on the draft of the Bill. The Committee quickly returned, with the Commons assenting to most of the Bill's text but "reserving liberty to insert the names" of the Commissioners who would enforce the act. MPs finalized the list of members on July 2. They voted on the Bill three days later, with the yeas carrying the day 185 to 77.[102]

The Lords sought to advance a much more royalist agenda than the Commons had. While the Commons had sought to regulate corporations by purging some disloyal members, the Lords took the greater step of ordering that "every the corporations of cities, towns, and boroughs… shall… renew their several and respective charters," otherwise they would "become utterly null and void." They further desired that the King possess power to "forever hereafter nominate and

[101] "The Humble Petition of the Aldermen, Bailiffs, and Burgesses of the Borough of Denbigh" (Nov 1660), "The Humble Petition of the Mayor, Aldermen, and Burgesses of the Burrough… of Doncaster" (Nov 1660), "Petition of the Aldermen, Several of Your Chief Burgesses, and the Other Burgesses and other Inhabitants of the Borough and Town of St. Edmondsbury" (Nov 1660) TNA, SP 29/22, f 2r, 3r, 6r.
[102] *CJ*, VIII: 275-291.

appoint their Recorders and Town Clerks" and also that the King be enabled to select the mayor from a slate of six candidates chosen by the corporation.[103] The Commons were flabbergasted by these amendments. They requested a conference with the Lords and placed the Solicitor General, Sir Heneage Finch, at the helm. Finch drafted a list of reasons for the Commons' rejection of the Lords' amendments in a scathing rebuke entered into the journal on July 25. This list of reasons showcases the distinction between the two Houses on this Bill. Finch wrote that "the whole regulation of corporations doth consist in placing the government in right hands." The problem with corporations, in other words, was not structural or constitutional, but individual. Finch and the Commons, therefore, felt that the Bill should affect a "temporary" "reformation" in corporate governments, one which would be "agreeable" to the corporations themselves and would secure their privileges. The Lords, meanwhile, had attempted to "make a perpetual change" which would not "reform" or "regulate" corporations, but would instead "extirpate" them.[104] The different approaches to the Bill for Regulating Corporations represented competing visions of corporate reform, and of the best way to resolve the insecurities which plagued the Restoration Crown.

Which side represented the Crown? No smoking gun has surfaced which allows us to say definitively which side the Ministry was on, but what evidence there is suggests Finch spoke for the Government.[105] The fact that the chief speaker in the Commons was the Crown's Solicitor General, and that the final version of the bill was submitted by Attorney General Geoffrey Palmer, suggests that the Crown's top legal officials supported a more conservative policy.[106]

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[103] *CJ*, VIII: 310-311.
[104] *CJ*, VIII: 311-312.
[105] For alternative perspectives, see Sacret, "The Restoration Government and Municipal Corporations," 249; Paul Seaward, *The Cavalier Parliament and the Reconstruction of the Old Regime* (Cambridge: Cambridge University Press, 1989), 153-156; Hutton, *The Restoration*, 158-161.
[106] For Palmer's submission of the draft, see Halliday, *Dismembering the Body Politic*, 89.

Historians have noted that the speaker for the Lord's Committee, the Earl of Portland, was a friend of Clarendon's. While this is true, it ignores the connections between Finch and Clarendon. They were evidently somewhat close (Finch was named as an advisor in Clarendon's Will) and Finch owed his seat in the Commons to Clarendon's nomination for Oxford University.[107] Finch's account of the shortcomings of the Lords' amendments, would seem a better representation of the Crown's attitudes than the fact that the meetings in which the Lords conceived of the amendments to the corporation bill were chaired by York and held at his house.[108] Finch even received the thanks of the King and the Duke of York for his "composure" in the meeting with the Lords – an odd move from the monarch, if Finch had just thwarted his plans.[109] Furthermore, when the Act was being executed, Clarendon and Charles appear to have doubled down on a conservative policy. Clarendon appears to have been largely responsible for selecting the Commissioners, who generally seem to have been of moderate Cavalier and Parliamentarian sensibilities.[110] When the Earl of Derby, a Commissioner for Lancashire and a member of the Lords' Committee, suggested that he and his fellows should turn out "all such as ever had been against the King, and had given no testimony of their loyalty before his Majesty's happy Restoration" notwithstanding their willingness "to subscribe, and take the oaths appointed by the Act" he was commanded to make "all convenient speed to repair to the Court unto his

[107] For Clarendon's Will, see H.O. Coxe, et al., Eds., *Calendar of the Clarendon State Papers, preserved in the Bodleian Library* (Oxford: Clarendon Press, 1970), V: 526-7. For Finch owing his seat in the Commons to Clarendon, see M.W. Helms and Leonard Naylor, "FINCH, Heneage (1621-82), of Ravenstone, Bucks. and Kensington, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/finch-heneage-1621-82.
[108] For the meeting of the Lords committee at the residence of the Duke of York, see *LJ* XI: 313.
[109] "Sir John Finch to Lord Conway" (July 25, 1661) in Marjorie Hope Nicolson and Sarah Hutton, Eds., *The Conway Letters, Revised Edition* (Oxford: Clarendon Press, 1992), 188-189.
[110] For Clarendon's role, see *Notes Which Passed at Meetings of the Privy Council Between Charles II and the Earl of Clarendon*, 79. For the commissioners and the business of the Commissions, see Paul Halliday, *Dismembering the Body Politic*, 92-104 and Schilling, "The Central Government and the Municipal Corporations," 192-228.

Majesty's presence."[111] He later claimed he had been "misrepresented… concerning the putting in execution the Act."[112] Derby's chastisement for pursuing an aggressive purge contrary to law demonstrated the kind of policy the ministry favored. Clarendon and Charles sought to regulate corporate municipalities, not extirpate them, and rejected the infeasible and extremist reforms suggested by the House of Lords.[113]

The Corporation Act's ultimate form reflected the ministry's policy of reformation. Most of the Lords' amendments were dropped in the final revision, although their suggestion that the King should nominate all of the Commissioners, not just those for London, was maintained in the final version. Critically, the Act maintained the individual focus of the Commons. The purpose of the Act, outlined in the preamble, was to ensure "that the succession in [the] corporations may be most probably perpetuated in the hands of persons well affected to his majesty and the established government" and that "evil spirits" may be prevented from gaining power in corporate jurisdictions. Which subjects were "evil spirits" could be easily divined from the stipulations of the Act. For one, all municipal officials were required to subscribe to two oaths, one proclaiming the unlawfulness "upon any pretence whatsoever" of taking up "arms against the King," the other denouncing the Solemn League and Covenant as "an unlawful oath." More damningly, the Act mandated that no municipal official thereafter would be elected "that shall not have within one year… before such election… taken the sacrament of the Lords Supper according to the rites of the Church of England."[114] Nonconformists, then, were definitionally of suspect loyalty, and could not be trusted to enforce Crown authority in the corporations.

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[111] "Earl of Derby to Secretary Nicholas" (10/14/1662) TNA, SP 29/61, f 77r. Derby had been part of the Committee which drafted the rejected Lords Amendments in the Commons.
[112] "Earl of Derby to Secretary Bennet" (11/11/1662) TNA, SP 29/62, f 168v.
[113] This analysis agrees with the conclusion advanced in Halliday, *Dismembering the Body Politic*, 89-90.
[114] "An Act for the Well Governing and Regulating of Corporations" (12/20/1661) *Statutes of the Realm*, V: 321-322.

Despite clamors from disaffected Cavaliers to limit the privileges and governing authority of all corporations, Clarendon and Charles opted for a policy of moderation. Why was this? It seems likely that Clarendon's own political sensibilities must have played a big part. Clarendon was a conservative and constitutional moderate – he had first risen to political prominence as a reformer during the reign of Charles I, where he had opposed the "earl marhsal's court" as a "heavy grievance" erected "without color or shadow of law." He was, in his own estimation, a member devoted to "maintaining what the law had established," and he rejected the innovations and overreach of Charles I during the 1630s.[115] At the Restoration, Clarendon was happy to acknowledge that men who would previously "have been the objects of [the King's] justice" may be entitled, for recent loyalty, "to the greatest favors the King could confer."[116] Charles appears to have agreed with Clarendon about the need for a mixed ministry, as he admitted a number of former Republicans to his Council.[117] The decision to pursue a conservative policy was of course political as well as principled. As Clarendon was to recall during his exile, "the King was not yet the master of the Kingdom."[118] The anxieties laid out above necessitated intervention, but they also demanded caution. When a group of Bristolian royalists petitioned the King to be restored to the corporate offices, Hyde counseled patience. "The [petitioners] are impatient to have all done at once," wrote Hyde, "but I think it must be done by degrees."[119] While the Crown might have wished to take a more aggressive stance – and that is disputable – there was no question that it wouldn't. The practical realities of Restoration politics meant that corporate policy during the Clarendon ministry would be cautious and conservative.

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[115] Edward Hyde, *The Life of Edward, Earl of Clarendon, Lord High Chancellor of England, and Chancellor of the University of Oxford*, (Oxford: University Press, 1857), I: 67, 71.
[116] Hyde, *The Life of Edward, Earl of Clarendon*, I: 302-3.
[117] According to Clarendon, this was at Monck's urging. Hyde, *The Life of Edward, Earl of Clarendon*, I: 277-8.
[118] Hyde, *The Life of Edward, Earl of Clarendon*, I: 273.
[119] "Lord Chancellor Hyde to Secretary Nicholas" (9/10/1660) TNA, SP 29/14, f 127r.

The constitutional moderation that Clarendon had evinced his whole political career informed the way that the Restored monarchy understood corporate disloyalty. For Clarendon, corporate misbehavior was a problem of personnel. By removing the dissenters and republicans who held power from office, the Restored monarchy hoped that it would be able to enjoy power and security. Charles and Clarendon rejected the more radical calls for royal intervention from a combination of conservative constitutional principle and political expediency; as they understood it, the problem was not corporations as such, but the dissenting leaders of these corporate bodies. It was "placing the government in right hands," not fundamentally altering the powers and privileges that corporate governments possessed, which was the goal of corporate policy under the Earl of Clarendon.

II: The New England Commission

In New England as in old, the early 1660s marked a moment of corporate instability, in which all colonies were desperate for incorporation or confirmation of their existing charters.[120] Charles granted royal charters to two new colonies in New England, Connecticut and Rhode Island. Connecticut colony's agent was John Winthrop, Jr., who had first been elected governor of the colony in 1657. On February 12, 1662, Winthrop pleaded that a charter of incorporation "which might assure [the settlers] of such liberties and privileges and authorities as might encourage them to go on through all the difficulties and expenses" of colonization was essential for adding "to the honor and enlargement of your majesty's dominions."[121] Charles, it seemed, did not take much convincing – two months after Winthrop's petition, the charter of "the Governor and Company of the English Colony of Connecticut" passed under the royal seal. The new charter made the settlers "a body politic and corporate" with all the privileges of "any other

[120] "Minutes by Sec Nicholas Concerning New England," (2/6/1661[/2]) TNA, CO 1/16, f 29r.
[121] "Petition of John Winthrop on Behalf of Connecticut to the King," (2/12/1661[/2]) TNA, CO 1/16, f 36r.

corporation or body politic within" England. It acceded to virtually every request that Winthrop had asked for

Despite having begun petitioning for incorporation over a year earlier, John Clarke's lobbying on behalf of Rhode Island had still not born fruit.[122] Clarke's first petition, submitted in late January 1661 had pleaded for the King to extend "the wing of your royal protection" over the settlements.[123] The settlers, wrote Clarke, had gone from old England to New to "flourish in their civil and religious concernments" but, finding Massachusetts an inhospitable climate, had been forced to "remove again." They desired "a charter of civil incorporation" to secure them "in all desirable freedom and liberty… both among themselves, and from all others, whether English or Indians."[124] The English menace to their liberty, as we have seen, was Massachusetts Bay, which had previously imprisoned Clarke for his preaching and which saw the fanatics of Rhode Island as snakes in Eden. The effort to secure Rhode Island's incorporation was an existential battle for Clarke and those he represented.

It seems likely that concerns about Massachusetts' behavior were critical to the chartering of Connecticut and Rhode Island. At a meeting of the Council on Foreign Plantations on September 25, 1662, the "settlement of plantation in New England" was "seriously debated and discoursed" until Lord Chancellor Clarendon, who as we have seen was a major correspondent with Samuel Maverick, "declared that his Majesty would speedily send commissioners to settle the respective interests of the several colonies." In the same meeting, it was determined that the Duke of York would "consider the choice of fit men" and that "a patent of corporation [would]

[122] There is a confusing petition speculatively dated March 28, 1661, in which Clarke thanks Charles for "that signal token of your royal favor and bounty towards [Rhode Island] in your late grant," but the petition speaks of Clarke's imminent departure from England. Given that Rhode Island would only receive its charter in April 1663, I suspect the March 1661 petition is misdated. TNA, CO 1/15, f 69v-70r.
[123] "Petition of John Clark on behalf of Rhode Island to the King" (1/29/1660[/1]) TNA, CO 1/15, f 7r.
[124] "Petition of John Clark on behalf of Rhode Island to the King" (2/5/1660[/1]) TNA, CO 1/15, f 14r.

be granted to Rhode Island."[125] That the decision to incorporate Rhode Island took place at the same time as the decision to resolve disputes within New England hardly seems coincidental – instead, I suggest that incorporating Rhode Island was an effort to limit the expansion of Massachusetts by establishing a firm southern border for the colony. Indeed, when the New England Commission arrived in the region in 1664, they "chose to visit [Rhode Island] first" because they expected "a better compliance from those than from… Boston." Colonel Cartwright, one of the four commissioners, noted the Commission's hopes that "the loyalty of the other colonies and their compliance with us may be both an example to [Massachusetts] and an argument of the necessity of their submission to his majesty, when they shall have no hopes left of making them of their confederacy."[126] Chartering Connecticut and especially Rhode Island appears to have been a strategy to play the other colonies against the Bay Colonists.[127]

There remained the complicated matter of where, exactly, Rhode Island was. According to Connecticut's charter, the eastern boundary was the "Narragansett River, commonly called Narragansett Bay." The problem was that the Narragansett Bay and the Narragansett River were not necessarily the same things. Winthrop had petitioned for Connecticut to abut Plymouth colony, and so likely intended for the eastern border to be the Bay. The Narragansett River meanwhile was an alternate name for the Pawcatuck River, roughly 25 miles further west.[128] The difference comprised nearly 600,000 acres. Which was it? Before the Rhode Island charter could be finalized, John Winthrop, Jr. and John Clarke had to work out a boundary. The two agents met

[125] "At the Court at Whitehall" (9/5/1662) TNA, CO 5/903, pp 9-10.
[126] "Colonel George Cartwright to the Secretary of State [Morrice]" (2/7/1664[/5]) *NY Docs*, III: 89.
[127] The proprietary grant of New York granted to the Duke was likely similarly designed to fix the boundaries of New England's expansion. "Grant of the Province of Maine" (3/12/1663[/4]) in Francis Newton Thorpe, ed., *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies now or Heretofore forming the United States of America* (DC: Government Printing Office, 1909), III: 1637-40.
[128] Thorpe, *Federal and State Constitutions*, I: 535. For the Narragansett River as an alias for the Pawcatuck River, see "Agreement about the Bounds of the Two Plantations of Connecticut and Rhode Island as Settled by the Mutual Consent of Both the Agents of the Two Colonies Respectively" (4/7/1663) TNA, CO 1/17, f 49v-50r.

in April 1663 to resolve the "doubtfulness of some names and expressions mentioned in the said patent." They selected five men to determine the border and give "a mutual satisfaction to both of the said colonies." The result was that "a river there commonly called and known by the name of Pawcatuck River shall be the certain bounds between these two colonies" and that "the said river shall for the future be also called Narraganset."[129] Despite this agreement, Connecticut, Plymouth and Massachusetts would seek to acquire the Narragansett lands for much of the coming decades.[130]

These new charters provided the immediate backdrop to the New England Commission of 1664-5. The plan for the Commission was built upon the scaffolding of petitions from corporate subjects of New England, most especially those of Samuel Maverick, who served as one of the commission's four members, likely at the advice of Clarendon. The leader of the commission, Colonel Richard Nicolls, was a groom of the Duke of York's bedchamber, and was sent both to secure the loyalty of New England and to seize Dutch New Amsterdam and serve as the first English governor of York's proprietary colony.[131] Little is known about the other two members, but Colonel George Cartwright, given his title, had probably served with the royalists in the English Civil War. The professed goal of the commission was "to remove all jealousies and misunderstandings which might arise in [Charles II] of the loyalty and affection of our good subjects… or in them, of our good opinion and confidence in them."[132] In actuality, as

[129] "Agreement about the Bounds of the 2 Plantations of CT and RI" (4/7/1663) TNA, CO 1/17, f 49v-50r.
[130] See for example their first petition, submitted two months after the agreement in June 1663. "The Humble Petition of John Scott, John Winthrop, Simon Bradstreet, David Denison, Josias Winslow, Thomas Willet, and Richard Lord" (Before 6/21/1663) TNA, CO 1/17, f 154r. See as well petitions from Rhode Island and Connecticut submitted to the Commissioners in 1665: "Benedict Arnold and William Brenton on behalf of Rhode Island to Col Nicolls and the Rest of the Commissioners" (2/3/1664[/5]) and "Petition of Captain William Hudson, John Paine, and Others Concerned in the Narragansett and Nayantick Countries to Maverick and Cartwright" (nd, Feb 1665?) TNA, CO 1/19, f 25r-26r.
[131] Robert C. Ritchie, "Nicolls, Richard (1624-1672)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/20182; *NY Docs*
[132] "Instruction to the King's Commissioners to Massachusetts" (4/23/1664) *NY Docs*, III: 51.

illuminated in a set of secret instructions issued to the Commissioners, "the main end of your employment is to inform yourselves and us of the true and whole state of those several colonies" and to "lead and dispose them to desire to renew their charters, and to make such alterations as will appear necessary for their own benefit." In particular, the secret instructions suggested two changes may be necessary: that the Crown ought to have "the nomination of the Governor [from a slate of three locally chosen candidates] or approbation" and secondly "that the militia should be put under an officer nominated or recommended by us."[133] In Massachusetts, the Commissioners were tasked with animating public support for a new charter, with the hopes that their presence and alliance with local grandees would lead to the election of a General Court and Governor favorably inclined to charter renewal along these lines.

Critically, Charles did not consider these to be major impositions; indeed, he believed, rightly, that it was Massachusetts, and not he, that had violated the terms of the charter, not only during the Civil Wars, but since the Restoration. All owned that, by the Bay Colony's charter, Massachusetts was empowered to make "such laws and ordinances" as "be not contrary to or repugnant to the laws and statutes of this our realm of England."[134] Yet as early as 1639, John Winthrop wrote in his diary that the laws developing in the colony "professedly transgress the limits of our charter, which provide we shall make no laws repugnant to the laws of England."[135] Likewise the General Court's insistence in 1637 that it had the "power to hear and determine [cases] without any reservation" of appeal to the Crown marked a departure from the Crown's traditional right of appellate jurisdiction in English corporations.[136] The blatant Calvinism of

[133] "Private Instructions to Colonel R. Nicolls, &c." (4/23/1664) *NY Docs*, III: 57, 60.
[134] Thorpe, *Federal and State Constitutions*, III: 1853.
[135] John Winthrop, *The Journal of John Winthrop, 1630-1649*, Richard S. Dunn and Letitia Yeandle, Eds. (Cambridge, MA: Harvard University Press, 1996), 168.
[136] Winthrop, *Journal*, 132; Joseph Henry Smith, *Appeals to the Privy Council from the American Plantations* (New York: Columbia University Press, 1950), 41-42.

much of the General Court's laws, plus the colonial leadership's eschewing of the Oath of Allegiance, were also obvious usurpations of charter privileges. The General Court's refusal to provide liberty of conscience and grant freedom of the company to Anglicans despite the King's explicit command in 1662 demonstrated that this usurpation was ongoing.[137] Charles was very careful to communicate to the commissioners, both in their public-facing and secret instructions, that "the ground and foundation of your employment is the exact observation of the charters, and reducing to that rule whatsoever hath swerved from it."[138] The King's promise to the colony that "we are so far from any though or abridging or restraining" Massachusetts from any privileges or liberties granted … in [the] charter, that we are very ready to enlarge those concessions or to make any other alterations," or his declaration in Council that he intended to "preserve the charter of that plantation and to send some commissioners thither speedily to see how the charter is maintained on their part and to reconcile the differences at present amongst them" must be taken seriously.[139] Charles did seek to tweak aspects of Massachusetts's corporate government, but from his perspective he was the one preserving the charter. He was not, at least at this point, the absolutist tyrant of so much Whig and Americanist historiography, dead-set on stripping a colonial republic of its freedoms – he merely sought to preserve himself and his rule by holding Massachusetts to the meaning of its constitutional document.

If the goal of the New England Commission was to bring Massachusetts into compliance with the intention of its charter and submission to its king, the method relied on redress. From the beginning, the two goals proceeded in tandem. "In adjusting the affairs of New England" wrote one councilor, likely in 1664, "there must be affected establishment of the King's

[137] "The King to the Governor of Massachusetts" (6/28/1662) TNA, CO 1/16, f 168v-169r.
[138] "Private Instructions to Colonel Nicolls, &c." (4/23/1664) *NY Docs*, III: 58.
[139] "Instruction to the King's Commissioners to Massachusetts" (4/23/1664) *NY Docs*, III: 51; "At the Court at Whitehall" (4/10/1664) TNA, CO 5/903, pp 10-11.

sovereignty and the subject's propriety."[140] One of the Commission's paramount responsibilities was to "examine and determine all complaints and appeals in all cases and matters" in which "our good subjects residing" in New England "do not enjoy the liberties and privileges granted to them by our several charters." The Commissioners were to hear Indigenous grievances as well, on the grounds that the King had "received some addresses from the great men and Natives of those countries, in which they complain of breach of faith and acts of violence and injustice which they have been forced to undergo from our subjects."[141] In New Hampshire, Clarendon advised the Commissioners to appeal to "the generality," who "are said to be well affected toward" the Crown "being lately oppressed by the more potent corporation of the Massachusetts."[142] The Commissioners, in short, were to endear themselves in New England by delivering the King's justice in the midst of corporate overreach.

The Crown believed that if the Commission showed itself to be an agent of royal justice it would be able to secure a favorable assembly. It was the King's express command that the Commissioners not appear inclined towards any changes "except" those which "arise amongst [the colonists] themselves in the General Assembly." This focus on the Assembly meant that the whole project of securing royal authority in New England was contingent on marshalling the support of corporate subjects dissatisfied with the Bay Colony's government. "Because much of the good we expect from your journey depends upon the wisdom and fidelity of that assembly, you shall use your utmost endeavors… to get men of the best reputation and peaceably inclined, to be chosen… and then according to the interest and credit you have, give them all advice and

[140] "Important Points for the Settlement of New England," (1664?) BL, Egerton MS 2395, f 396r.
[141] "Commission to Col Nicolls and Others to Visit the Colonies and Determine Complaints," (4/23/1664) *NY Docs*, III: 64. See also Charles's letter to the Governor and Council of MA explaining his reasons for sending the Commission, (4/23/1664) *NY Docs*, III: 61-63; and the instructions to the Commissioners, (4/23/1664) *NY Docs*, III: 53.
[142] Clarendon? "Considerations in Order to the Establishing his Majesty's Interests in New England," (1664?) TNA, CO 1/18, f 94r.

encouragement to promote our service."[143] The belief in the soundness of this bottom-up approach to corporate reform in New England was most likely due to Maverick's influence. In his many letters to Clarendon, Maverick had attempted to dispel "any doubt of their receiving a Governor or Commissioners" assuring that there would "be little or no opposition." For, "three quarters parts of the inhabitants will joyfully and thankfully receive them, as the restorers of them to liberty from long bondage."[144] On this telling, most of New England desired a change in government. Resolving local disputes would demonstrate the benefits of Crown intervention to the mass of oppressed corporate subjects in the colony. Only by securing subjects in their property and liberties could the Commission hope to get a General Court favorably inclined to charter renewal elected. For these ends, and with these methods, the New England Commission set out in mid-May, 1664. Its failure, and the Crown's response to that failure, are discussed below.

These Crown actions, taken together, evince something of Charles's attitude to corporate jurisdictions in the English empire overseas. Charles was not in agreement with his tutor Cavendish's advice that all corporations were "petty free states against monarchy" in the early 1660s.[145] Instead, he appears to have seen corporations as ways of locally buttressing his power. His incorporation of Connecticut and Rhode Island in New England created two new corporate jurisdictions in America, apparently relinquishing crown control in the region. They also gave royal sanction to those colonies and acted as a legal barrier to Massachusetts' further expansion in the region. For Massachusetts Bay itself, Charles seems to have genuinely desired to bring the corporation into compliance with its charter – not to do away with it. His secret instruction to the

[143] "Private Instructions to Col Nicolls &c," (4/23/1664) *NY Docs*, III: 60.
[144] "Maverick to Clarendon" *Collections of the NY Historical Society*, II: 26-27.
[145] Henry Cavendish, "Advice to King Charles II" (1660) Bodleian Library, MS Clarendon 109, 47.

Commissioners that the ground of their commission was the "exact observation of the charters, and reducing to that rule whatsoever hath swerved from it" strikes not so much as an admission of absolutist intent, but an ambition to make corporations assist the Crown rather than oppose it.[146] When Massachusetts petitioned against the Commission, Charles made the personal element of his policy clear, looking upon it as "the contrivance of a few persons who have had too long authority there" and recommending that Governor Endecott, "not a person well-affected to his majesty's person and government" be replaced.[147] In England, municipal corporations were not attacked *qua corporations*, but under the Corporation Act the Crown and Cavalier Parliament did attempt to purge nonconformists of dubious loyalty from positions of power. Charles's policy, likely proffered by his Solicitor and Attorney General, Heneage Finch and Geoffrey Palmer, deliberately avoided the wholesale extirpation of corporate charters in England. Instead, as the preamble to the Act read, the goal was to bring the municipalities into compliance with "the true intent and meaning of their charters and liberties" and to ensure that "the succession in such corporations may be most probably perpetuated in the hands of persons well affected to his majesty and the established government."[148] In short, the evidence is completely against the interpretations of Charles's reign that view him as having designs, from the Restoration, against corporate autonomy. The Crown's policy in the early 1660s was always to renew and tweak corporate charters to provide itself slightly greater power to ensure the loyalty of corporate leaders. Charles and his ministers did not view corporations as inimical to monarchy in the early 1660s.

III: Joint Stocks and Fiscal Independence

[146] "Private Instructions to Colonel Nicolls, &c." (4/23/1664) *NY Docs*, III: 58.
[147] "Mr Secretary Morrice's Answer to the Petition of New England" (2/25/1664[/5]) *NY Docs*, III: 90-91.
[148] "An Act for the Well Governing and Regulating of Corporations" (12/20/1661) *The Statutes of the Realm*, V: 321.

Perhaps the best evidence that Charles believed corporations and the Crown could mutually benefit each other is the example of the two great joint stocks, one of which had its charter privileges confirmed by the new monarch, the other of which was a new creation. The Restored Monarchy was acutely concerned with trade. Charles possessed "a very great desire to improve the general trade and traffic of the Kingdom" and immediately erected a Council for Trade to manage overseas commerce.[149] From the beginning this trade was envisioned in chartered terms. The "Instructions" for the Council demanded they inquire "what jurisdiction[s]" would be needed to ensure that chartered corporations would have "regular government" over their trades.[150] Charles hoped that these companies would provide politically easy revenues by advancing the empire's trade. The reason for this was, as ever, the stability of the Restored throne. By Magna Carta, levying taxes within England typically required the consent of Parliament. Charles had witnessed firsthand how attempts to insulate the monarch from Parliament's influence by levying taxes without its consent could end poorly for a ruler. But the customs generated by overseas trade were markedly different in this respect. These duties went directly to the King and did not require Parliamentary approval. Because they were leveled on merchants as opposed to on all English property, these taxes were far less likely to rankle the general populace. And merchants, though they may not like them, were willing to support the monarchy if the monarchy would protect their investment – say, by incorporating them and granting them a monopoly on a given trade. Monopolistic joint stock trading companies and the Crown thus supported each other in this period, as they had before the Civil War. Charles II was no absolutist at this time, but he was constantly strapped for cash and had little desire to become a puppet of the Cavalier Parliament. An alliance with trading companies granted him some

[149] Hyde, *Life of Clarendon*, II: 3-4.
[150] "Instructions for the Council of Trade" (c1660) BL, Egerton MS 2395, f 268r.

measure of financial independence. Far from evincing uniform hostility to corporate privileges, the Crown clearly saw some corporate bodies as potential partners in the business of government.[151]

The first joint stock to receive a charter of incorporation from Charles II was the Company of Royal Adventurers Trading into Africa (RAC).[152] The Company received its charter on December 18, 1660. It appears to have been the brainchild of Prince Rupert and the Duke of York, who saw in it the opportunity to discover and seize "golden mines" and to trade with Africans for ivory and redwood.[153] The initial members listed in the charter are a coterie of courtiers, royalist soldiers, and members of the royal family. When given the opportunity to create a new corporate government, Charles was determined to ensure its steadfast loyalty. The RAC immediately went to work, borrowing royal vessels to establish trade links on the Gold Coast.

From the first voyages, the RAC was an irritant to the Dutch WIC, which had succeeded in wresting much West African trade from the Portuguese. The Dutch captured six ships between April 1661 and January 1662 after blockading the coast, and the RAC accused them of destroying their factory at Cape Corse.[154] These reversals, combined with the slim returns from gold and other African commodities, quickly led the Company to the brink of bankruptcy. One

[151] This account agrees generally with the connections between monopoly trading companies and monarchy laid out in Robert Brenner, *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653* (New York: Verso, 2003 [1993]), 667-670. Although Brenner's focus is on the reign of Charles I, he sees the Restoration as a return to the same kinds of monarchical-merchant company alliance. Ibid, 709.
[152] The Company was often referred to as the Royal African Company, even prior to the chartering of the formal RAC in 1672. Given that the company was broadly continuous in leadership and membership, I have opted for this acronym.
[153] "Charter of the Company of Royal Adventurers" (12/18/1660) in Cecil T. Thomas, Ed., *Select Charters of Trading Companies, AD 1530-1707* (London: Bernard Quaritch, 1913), 174. For the influence of York and Rupert see Hyde, *Life of Clarendon*, II: 2, and George Freidrich Zook, *The Company of Royal Adventurers Trading into Africa* (Lancaster, PA: The New Era Printing Company, 1919), 8.
[154] Zook, *The Company of Royal Adventurers Trading into Africa*, 36.

profitable avenue had revealed itself by this time: the trade in enslaved Africans. The RAC solicited for a new charter of incorporation, which would grant enlarged privileges, authorities, powers, and jurisdictions to the Company.[155] The new charter placed the slave trade in a prominent position, and granted the company "the wide, entire, and only trade… for the buying and selling… [of African] slaves."[156] The Company realized its monopoly on the slave trade would be politically contentious, particularly with the Caribbean planters who had come to see enslaved Africans as "the principal and most useful apprentices of a plantation."[157] They immediately published declarations, echoed by a royal proclamation, to "satisfy all rational persons, that nothing is designed by the public good." The King claimed the revitalized company was necessary to combat the Dutch menace, which had "so invade[d] and disturb[ed]" the English that the trade was "in danger utterly to be lost." James addressed the worries of English planters directly. "The Royal Company" he soothed, were "very sensible how necessary it is that the English plantations in Americas should have a competent and constant supply" of enslaved laborers. The Company would meet the demand, "so as the planter will have no just cause to complain of any want."[158] In the years before the outbreak of the Second Anglo-Dutch war, it appears that the RAC may have fulfilled its promise. Between August 13, 1663 and March 17, 1664, the Company imported 3,075 enslaved Africans into Barbados; GF Zook has calculated that these Africans were purchased for 16 l. each, less than the Company's proposed "reasonable

[155] "Warrant to Prepare a Bill for the King's Signature, containing a Grant to the Royal African Company" (1/10/1662[/3]) TNA, CO 1/17, f 4r. The company's solicitation is acknowledged in the grant: Thomas, *Select Charters*, 178.
[156] Thomas, *Select Charters*, 180.
[157] "Certain Instructions for the Better Accommodating the Foreign Plantations with Servants Reported from the Committee to the Council of Foreign Plantations" (1660?) BL, Egerton MS 2395, f 277r.
[158] *The Several Declarations of the Company of Royal Adventurers of England Trading into Africa* (London?: RAC, 1667 [1/12/1662[/3]), 1-2. The RAC's republication of these declarations in 1667 indicates how the controversy continued.

terms" of 17 l.[159] So long as the Company continued to furnish the plantations at such high volume, its monopoly could be borne as a light yoke. The looming threat of the Dutch, and the Company's program to sell Africans to Spanish America, would in a short time upset any brief harmony between the Company and the Planters.

The other major joint stock of Charles's reign was the Governor and Merchants of London Trading to the East Indies (EIC). The EIC had first been chartered by Queen Elizabeth on December 31, 1600. It had traded to the region sporadically, suffering reversals as Dutch power in the region grew, and falling subject to major restructuring during the Interregnum. In 1657 Cromwell chartered the EIC on a perpetual basis. After a period of instability for the Company in which private trade was rampant, the Restoration presented an opportunity for the Corporation to secure its jurisdictional and economic privileges against interlopers. In January 1660, EIC governor Thomas Andrew warned the Court of a matter "of much importance and concernment to the Company," namely "the stream of private trade driven here [England] and in India, by some of [the Company's] factors." The Court created a nine-member committee to "consider and do what they shall conceive to be of advantage to the Company's trade, and to do what they shall think fit to prevent any incroachment… to the company's privileges."[160] Interloping was a major problem for the Company, which had been struggling to assert its control of English trade with India since 1657. When the ship *Anne and Joyce* was being prepared for private trade to Bantam on behalf of Thomas Skinner, the Company resolved to warn the proprietors "that if they entrench or encroach on their privileges or trade, the Company are

[159] Zook, *The Company of Royal Adventurers Trading into Africa*, 82; *The Several Declarations of the Company*, 8.
[160] "Court Minutes" (1/3-4/1659[/60]) BL, IOR/B/26, p 235.

resolved to hinder and obstruct them what they can, and if then they will proceed, be it at their perils."[161]

At the same time the EIC was trying to gain control over unruly English interlopers and its own employees, it was worried about the Dutch presence in the region. They had "sustained very great damages by the Dutch in the East Indies and Guinea."[162] The Dutch had been the dominant European traders in the region for decades and had shown their supremacy over the English in 1623 when they tortured and murdered 21 men, 10 employees of the English East India Company, at Amboyna in present-day Indonesia.

These two crises then – of external defense and internal authority – drove the East India Company into the arms of the restored monarchy. 8 of the 25 the leading members of the East India Company in 1660 who would be named in the royal charter of April 3, 1661 were part of the delegation which traveled to the Hague to invite Charles Stuart to reclaim his throne in England.[163] The East India Court, the body which administered the corporation, made haste to "express their allegiance to his majesty in some congratulatory address." Along with this congratulatory address, the General Court agreed to provide 3,000 l. worth of silver plate "for furnishing his majesty's house." The motion to bestow a gift to Charles was "so readily embraced by the Generality" of the subscribers to the joint stock "that immediately it became more their care how to perform it, than to make any scruple of doing it."[164] What exactly they wanted from the Crown was plain to see from requests they made to Charles and the Duke of

[161] "Court Minutes" (2/29/1659[/60]) BL, IOR/B/26, p 244.
[162] "Court Minutes" (3/30/1660) BL, IOR/B/26, p 249.
[163] These were: Governor Andrew Riccard; George, Lord Berkeley; John Lewis; William Thompson; Richard Ford; Theophilus Biddulph; William Vincent; and Thomas Bludworth. Entries for each of these are in the *Oxford Dictionary of National Biography* (oxforddnb.com) and *History of Parliament Online* (historyofparliamentonline.org). For John Lewis, see his mention in Henry B. Wheatley, Ed., *The Diary of Samuel Pepys, M.A., F.R.S., Completely Transcribed by the Late Rev Mynors Bright, M.A., from the Shorthand Manuscript in the Pepysian Library, Magdalene College, Cambridge* (London: George Bell and Sons, 1893), II: 195.
[164] "Court Minutes" (5/30/1660) BL, IOR/B/26, pp 266-267.

York in summer 1660. On the one hand, the Company wanted "reparations for the damaged sustained [from] the Dutch in India, and for his Majesty's protection of them to prevent the like in future."[165] The Company wanted state support for its trade to enable it to combat the aggressive posture of the state-backed VOC. More frightening to many Englishmen, however, was the Company's solicitation for state power to uphold their monopoly. In the short term, the EIC wanted to prevent any further private trade. The Court sent a group of commanders to the Downs to investigate ships from the East to root out private trade in July 1660. One week later, the Court asked four of its members – all of whom had been knighted by Charles for answering the Declaration of Breda – to procure the mandate of the Duke of York "to any of his Majesty's fleet in the Downs, &c to be assisting to such persons as shall be sent down with the Company's instructions aboard the returning ships, to obstruct private traders in their designs." The EIC found the Duke "very ready to accommodate" them and gifted him 1,000 l for his assistance.[166]

In the longer term, the Company needed a confirmation of its corporate privileges to replace the Cromwellian one. They thus made "address to his majesty for renovating and enlarging their power and privileges in their trade." The Crown viewed this petition favorably, and appears to have asked the Company what new privileges it required. The Company submitted several heads of new powers and privileges it believed were necessary to continuing the East India trade. The new charter bore the marks of the intracorporate conflicts which had preceded it. In the preamble, Charles claimed to have been "given to understand that of late diverse disorders and inconveniencies have been committed, as well by our own subjects as

[165] "Court Minutes" (8/8/1660) BL, IOR/B/26, p 280.
[166] "Court Minutes" (7/11/-8/31/1660) BL, IOR/B/26, pp 275-287.

foreigners, to the great prejudice of the [East India] Company, and interruption of their trade."[167] The new charter was a direct answer to the Company's charges that its privileges were under fire from English private traders and from the Dutch VOC. To deal with these enemies, the Company was granted new and expansive powers. In addition to incorporation and the right to trade with Asia, the company was empowered "to make, ordain, and constitute… laws, constitutions, orders, and ordinances" as they deemed "necessary and convenient for the good government of the said company… and for the better advancement of the said trade or traffic." The power to make laws was, of course, backed by the power to enforce, and the Company was duly permitted to "provide such pains, punishments, and penalties, by imprisonment of body, or by fines… upon or against all offenders." As with any overseas corporation, these powers carried the stipulation that "said laws, constitutions, orders, and ordinances, imprisonment, [and] fines… be reasonable, and not contrary or repugnant to the laws, statutes, or customs of this our realm."[168] The Company was even given "full power and authority to appoint and establish Governors" over any plantations or colonies established in the region.[169] With this charter, the East India Company became a true "body corporate and politic" with all the liberties and jurisdictions that such governing authority implied.[170]

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[167] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies," (4/3/1661) in John Shaw, Ed., *Charters Relating to the East India Company from 1600-1761* (Madras: H. Hill, 1887), 32.
[168] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies," (4/3/1661) in Shaw, *Charters Relating to the East India Company*, 37-8. On repugnancy as a general principle of Anglo-British imperial governance, see Bilder, *The Transatlantic Constitution*. Bilder's Atlanticism notwithstanding, the charge that a corporate government's behavior was "repugnant to the laws of England" was levelled by corporate subjects throughout the empire.
[169] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies," (4/3/1661) in Shaw, *Charters Relating to the East India Company*, 44.
[170] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies," (4/3/1661) in Shaw, *Charters Relating to the East India Company*, 32.

These broad jurisdictional powers enabled the Company to act as a state in its own right. But contrary to the assertions of Company-State historians, we must avoid the temptation to see this corporation – and all of the others – as fully contained states in themselves, untethered from broader national or imperial politics and histories.[171] Between the Restoration and the issuance of the new East India Company charter on April 3, 1661, the Company's leadership actively sought the state's assistance in curbing interloping and bringing the VOC into submission. The King, for his part, did not grant the sovereign prerogatives of the new charter to a group of plenipotentiaries, and willingly lent his support to the East India and other trading companies as his loyal subjects. He solicited the major trading companies to nominate members for his new Council of Trade in 1660, evincing a desire to leverage their expertise and cooperate with them.[172] Yet it was in the charter that Charles made his firmest statement of royal support for the company. When Charles barred his other subjects from the territories of the company, he announced that he did so "by virtue of our prerogative royal, which we will not in that behalf have argued, or brought in question." Further, he warned that any subject who interloped in the East Indies, in addition to suffering the Company's justice, "shall incur our indignation, and… for their said contempt" would "suffer imprisonment during our pleasure, and such other punishment, as to us, our heirs and successors, for so high a contempt, shall seem meet and convenient." Perhaps the greatest evidence of the partnership between Crown and Company was in the treatment of interlopers' seized goods – one half of the forfeitures would go to the company, the other to the Crown.[173] The governing powers of the EIC were underwritten and

[171] See particularly Stern, *The Company-State*, 6 and passim.
[172] "Court Minutes" (8/29/1660) BL, IOR/B/26, p 285.
[173] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies," (4/3/1661) in Shaw, *Charters Relating to the East India Company*, 41. Emphasis mine.

reinforced by a Crown that had its own political reasons for favoring strong joint stock trading companies overseas.

To sum up, Charles's interventions in corporate affairs during the early 1660s were always aimed at bolstering the position of the monarchy. The Corporation Act and New England Commission would, he hoped, place the government of important municipal and colonial plantations in the hands of loyal subjects who would dutifully obey their sovereign. He had no intention in the early 1660s of stripping colonial or municipal corporations of their autonomy and refused to take the more radical steps of direct royal control of government or sweeping extirpations of charter privileges. In the early 1660s, the Crown sought to make corporations tools of royal power – not its enemies. The best example of this can be seen in the major joint stock trading corporations. The charters granted to the EIC and RAC provided considerable privileges and powers to the companies. Yet the Crown did not lament these benefices, instead relying on the joint stocks as loyal partners in the business of making the Restored monarchy financially solvent. The Crown knew that for protection from the Dutch and English interlopers, the two companies needed state assistance. In turn, it counted on the loyalists who governed these corporations to provide a steady flow of customs revenues to grant it some financial stability. All three kinds of corporation had the potential to be tools of Charles's state.

Yet even amid this optimism, there was cause for doubt. The joint stocks were personally and structurally tied to the new regime – they were helmed by loyal knights and courtiers, by men whose loyalty to the Stuarts was unimpeachable. Yet both joint stocks emerged in opposition to interlopers and the Dutch and would require state assistance to maintain their existence. In New England and English municipal corporations, governing power would not be in the hands of such compliant men. Whereas Charles could be reasonably assured of the loyalty

of the RAC and EIC, it remained for the municipalities and corporate colonies to prove that they had accepted the royal supremacy Charles believed had been secured by his Restoration. Their failure to do this, as attested by corporate subjects, would demonstrate the failure of Clarendon's conservative corporate policy before the end of the decade.

The Failure of the Interventions

None of the three interventions the Crown attempted to stabilize the regime and make corporations loyal was entirely successful. In each case, the authority of the crown was challenged, either by the members of the corporation, or by corporate subjects who rejected the jurisdiction the monarch had assigned over them. The failure of each of these interventions foretold a long reign of wrangling over corporate privileges. Let us inspect each failure in turn.

The Corporation Act which had received the King's assent in December 1661 may have represented the more moderate course, but it was hardly happily received. Dissenters balked at its provisions, which barred them from any position in corporate governments. Even before the act had become law, it was the subject of fierce controversy. William Prynne, the famed presbyterian who had had his ears removed for supposedly libeling the Queen in the 1630s, was at this time an MP for Bath and a fierce opponent of the Corporation Act. When the Bill passed the Commons in summer 1661, Prynne wrote an anonymous broadsheet to the Lords condemning it. He argued that the Bill's persecution of dissenters "deprived all cities, boroughs, corporations," with "all their magistrates, officers, and members, of the common benefit, pardon, [and] grace" of the Act of Oblivion, and tended instead to revive "the former marks and names of distinction" between the King's subjects. Worse still, the Act was a gross offense to English liberty, and would subvert, annul, and extirpate "the grand fundamental law of England, the

Great Charter, and all Acts of Parliaments, anciently and lately made for the security of the subjects' freeholds, liberties, franchises, and free customs against arbitrary and tyrannical invasions." Most of all, Prynne was concerned about the power the Bill granted to the Commissioners who would be responsible for purging disloyal men from the corporations. They had, in his view, "a more absolute, arbitrary, boundless power, to displace all magistrates… without distinction of persons, or rules of law, than was ever granted." Indeed, the Bill gave this power to commoners, who thereby could have the powers to remove even the greatest peers of the realm from corporations of which they were members.[174] Prynne was duly censured by the Commons for his "scandalous and seditious paper," but he had signaled that the Act would have a difficult road to enforcement.[175]

The final version of the Act stipulated that the King, not the Commons, would appoint the Commissioners. Clarendon appears to have played a central role.[176] Appointments were generally given to prominent local men of royalist or moderate political inclinations – in addition to zealous former Cavaliers, Commissions sometimes went to dissenters and former Parliamentarians who had nonetheless been sympathetic to the Restoration.[177] The Commissioners then traveled to each borough and county in England, where they would produce their commission, certify the oaths and subscriptions, and "peruse [the corporation's] charters and bylaws" to ensure that all magistrates had been elected according to their charters.[178] These

[174] [William Prynne], *Summary Reasons, Humbly Tendered to the Most Honorable House of Peers by some Citizens and Members of London, and other Cities, Boroughs, Corporations and Ports, against the New Intended Bill for Governing and Reforming Corporations* (London: [Prynne], 1661), 1. Prynne was commenting on the initial Commons version of the Bill. In the final Bill, the Commission would be granted by the King.
[175] *CJ*, VIII: 301-2.
[176] *Notes Which Passed at Meetings of the Privy Council Between Charles II and the Earl of Clarendon*, 79.
[177] For the procedures and business of the Commissions, see Paul Halliday, *Dismembering the Body Politic*, 92-104 and Schilling, "The Central Government and the Municipal Corporations," 192-228.
[178] This from the notes of one of the commissioners to Cambridge, Sir Thomas Sclater, quoted in Schilling, "The Central Government and the Municipal Corporations," 213.

Commissioners certainly exerted a profound influence over the corporations they visited. Paul Halliday has shown that for 36 major English municipalities, the Commission resulted in the ousting (voluntary or forced) on average of 33.74% of magistrates. Most of these were individuals who refused to denounce the Solemn League and Covenant.[179] Prior to the expiration of the Commission on March 25, 1663, many Commissioners rushed to ensure that disloyal persons were successfully purged. Lord Herbert, one of the Commissioners for Gloucester, encouraged his fellow members to "exclude them from all power of doing mischief for the future, and if you do commit an error let it now be on that safest hand, for a thing can never be left too clean that hath never the means more to be cleansed."[180] When the dust settled, many hundreds had been ousted from their corporate positions.

Yet the shortcomings of the Act were immediately apparent. In March 1663, the King authorized Attorney General Palmer to "prosecute… *Quo Warrantos* against such… corporations, who have not renewed their charters since his Majesty's restoration, as to him shall seem fit and expedient for his Majesty's service."[181] This was not yet the widespread, universal policy of extirpation that would define the 1680s, but it hinted at a recognition that the Commission had not ensured the stability of the English Crown. The most prominent municipal corporation of the kingdom, the City of London, was particularly disobedient. On several occasions in the 1660s, Charles wrote to the Corporation of the City of London reminding them that the Act should be "duly put in execution" and that the members of the Corporation must take the sacrament according to the Church of England, lest any election be declared void.[182]

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[179] Halliday, *Dismembering the Body Politic*, 95, Appendix B.
[180] Roland Austin, "The City of Gloucester and the Regulation of Corporations, 1662-1663" *Transactions of the Bristol and Gloucestershire Archaeological Society* 58 (1936): 265-266.
[181] "Quo Warrantos to be Issued Against Disaffected Corporations" (3/11/1662[/3]) TNA, PC 2/56, p 338.
[182] Examples can be readily found for 1661, 1666, and 1669. *The King's Letter to the Lord Mayor, and Court of Aldermen, of the City of London* (London: William Garret, 1661), 1; "The King to the Lord Mayor, Aldermen, and

Regulating London was of particular importance – "when this corporation is duly reformed" Charles wrote, "all the rest in the Kingdom will certainly take their measures from it."[183] As the reign continued, attempts to enforce the Corporation Act and bring London to compliance would become increasingly frequent.

Corporate subjects outside of London were vocal about the act's failure to restore them to power. Samuel Rychaut, ever the agitator, issued one of his many petitions in October 1662 warning that his rival for the Bristol clerkship, Robert Aldworth "(an obnoxious person)" had "neither taken the Oath nor subscribed the declaration in the late Act of Corporations." Indeed, Rychaut alleged that there were "several persons who remain still in office and authority in that city [who retained] their former disloyal principles."[184] Rychaut's petitions in fact point out the signal element that undermined the long-term efficacy of the Corporation Act's "reformation." Robert Aldworth came from a dissenting family, and had been an active participant in the Cromwellian regime, even assisting in the disposal of Crown and Church lands in the later 1650s.[185] Richard Ellsworth, a royalist who had "adventured his person in loyalty to his majesty… and [in] defence of" Bristol for Charles I, and was a supporter of Rychaut's cause, alleged that Aldworth had "rejoiced on learning that the Duke of Albemarle did not design the Restoration."[186] Yet Aldworth managed to keep his seat as town clerk. The reason, according to

Common Councilmen of London" (Sept 1663) TNA, SP 29/173, f 193r; "Note of Instructions to be Given to the Lord Mayor and Aldermen of London" (12/14/1669) TNA, SP 29/269/1, f 51r-v.

[183] "Note of Instructions to be Given to the Lord Mayor and Aldermen of London" (12/14/1669) TNA, SP 29/269/1, f 51v.

[184] "The Humble Petition of Samuel Ricaut [Rychaut] Esqr, Councellor at Law, the Unfortunate Son of a Loyal Father Sir Peter Rychaut, Knt, Deceased" (Oct 1662) TNA, SP 29/61, f 255r; "The Humble Petition of Samuel Ricaut, Concellor at Law, one of the Sons of Peter Rycaut, Knt diseased" (1662) TNA, SP 29/66, f 219r.

[185] Mary Anne Everett Green, *Calendar of State Papers, Domestic Series, 1657-8* (London: Her Majesty's Stationery Office, 1884), 320.

[186] "Certificate by Henry Creswick, Mayor of Bristol and Seven Aldermen… that Ric. Ellsworth Adventured his Person in Defence of the City for the Late King" (2/10/1661) TNA, SP 29/30, f 123; "Richard Ellsworth to Secretary Nicholas" (4/17/1661) TNA, SP 29/34, f 112.

Ellsworth and Rychaut, was that he was protected by local friends and relations. Ellsworth said that Aldworth was "the Mayor's [Henry Creswick's] relation by marriage."[187] Rychaut claimed that "Mr. Aldworth, being principled against the said oath and declaration, used such means (most of the commissioners being townsmen and of his relations) that the Oath and Declaration were never tendered unto him."[188] Aldworth did receive support from Creswick, who averred the former had "given such testimony of his loyalty and affection to his Majesty's laws and government" that it would be "a very great prejudice to his Majesty's service" to remove him.[189] Aldworth's brother in law, Sir Humphrey Hooke, had sound royalist credentials as well and was recommended for the order of the Royal Oak, and likely also protected his dissenting in-law from attempts to oust him.[190]

The example of Aldworth shows how the Corporation Act could fail, and how, in short time, nonconformists and men of suspect loyalty could occupy prominent positions in municipal corporations. The Act had granted commissions for one year. The commissioners were drawn from the surrounding areas, and many of them were connected – socially, politically, or economically – with the men they were responsible for purging. The strictures of the Act were often dismissed by the very commissioners charged with carrying them out, as they protected family members and dissenters. With the lapsing of the Act, enforcement fell to the imperfectly purged corporations to regulate their own affairs – where men sympathetic to dissent, or dissenters not purged, could elect nonconformists into positions of corporate authority. Charles's

[187] "Richard Ellsworth to Secretary Nicholas" (4/17/1661) TNA, SP 29/34, f 112.
[188] Rycahut, "A Short View of the Proceedings of Mr. Robert Aldworth, Present Town Clerk of Bristol" (1661) TNA, SP 29/48, 110r-v.
[189] "Sir Henry Creswick, former Mayor of Bristol, to William Sandys" (1/2/1663[/4]) TNA, SP 29/90, f 9r.
[190] Aldworth had married Dorothy, Humphrey's sister. Frederick W. Todd, *Humphrey Hooke of Bristol and his Family and Descendants in England and America during the Seventeenth Century* (New Haven: The Tuttle, Morehose, and Taylor Company, 1938), 50, 27. See also John P. Ferris, "HOOKE, Sir Humphrey (1629-77), of King's Weston, Glos." In *The History of Parliament Online*, accessed July 8, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/hooke-sir-humphrey-1629-77.

hope had been that the corporations would require only a swift reformation to set them on the right course. But the law's uneven application by the commissioners, its short duration, and its insistence on corporate self-enforcement undermined the foundation.

The New England Commission was even less effective at regulating the affairs of colonial corporations. Charles and Clarendon's first great misstep in this affair was in selecting Samuel Mavericke as one of the four commissioners. Though the monarch had claimed to select "strangers, without any interest or dependence" in New England, he had in fact selected the single most effective agitator against Massachusetts in the 1660s, the colony's "known and professed enemy."[191] One of Secretary Williamson's notes indicates that he thought "Mavericke was of all men the worst" to be on the Commission – "debauched, idle, and under great prejudices."[192] The colony leadership was immediately put on guard. Governor Endecott and the General Court dispatched a letter to Charles in October 1664, notifying him that by their charter was granted "not only the absolute soil and propriety of the tract of land… but also full and absolute power of governing all the people of this place by men chosen from among themselves." The commission, they wrote, would rob them of their charter privilege to be "governed by rulers of our own choosing… and by laws of our own" and instead subject them "to the arbitrary power of strangers, proceeding not by any established law, but by their own discretions." The commission was, they argued, a despotic measure which the King had been tricked into. Should the colony submit to it, wrote Governor Endecott, it would inevitably "weaken the authority established here by our charter under the great seal, the security of all our

[191] "Instructions to the King's Commissioners to Massachusetts" (4/23/1664) *NY Docs*, III: 51. For MA's labelling Maverick a known enemy, see "To the King's Most Excellent Majesty, the Humble Supplication of the General Court of the Massachusetts Colony in New England" (10/19/1664) TNA, CO 1/18, f 287r. The manuscript is damaged, but the missing parts are transcribed in John Gorham Palfrey's *History of New England During the Stuart Dynasty* (Boston: Little, Brown, 1876), II: 589-90.
[192] "Notes by Williamson concerning New England" (1663?) TNA, CO 1/17, f 276r.

liberties both civil and ecclesiastical." Tellingly, the colony recognized that there had been "high representations of great divisions and discontents among us" which produced "a necessity of sending commission[ers] to relieve the aggrieved." The General Court understood the impetus for the Commission came not from Whitehall, but from New England. The missive closed with a plea that the King not ask them "to yield up our liberties, which are far dearer to us than our lives" but to instead "LET our government live, our patent live, our magistrates live, our laws and liberties live, our religious enjoyments live, so shall we ALL have yet further cause to say from our hearts, LET the KING LIVE FOREVER."[193]

The King's response was swift and forceful. He was "not pleased with this petition, and looks upon it as the contrivance of a few persons who have had too long authority there." The King asked the colony how he should preserve the liberties of his subjects, if not by a commission. For he had received "so many complaints… of injustice done… contrary to the constitution of that government" from "particular persons" as also from "the other colonies" which suffered under Massachusetts's expansion, and "from the Natives, for the breach of faith and intolerable pressures laid upon them." In an echo of the Corporation Act, Charles closed his response with a warning that as he had "too much reason to suspect that" Massachusetts Governor Endicott "who hath during all the late revolutions continued the government there, is not a person well-affected to his majesty's person and government," the King would "take it very well" if another person were chosen in his stead.[194] The policy of purging and reforming corporations was still very much the order of the day.

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[193] "The Humble Supplication of the General Court of the Massachusetts Colony in New England" (10/19/1664) TNA, CO 1/18, f 287r; Palfrey, *History of New England During the Stuart Dynasty*, II: 589-90. "Governor Endecott to Secretary Morrice" (10/19/1664) TNA, CO 1/18, f 286r. This letter was likely drafted by the committee of Francis Wiloughby, Major General Jonathan Levert, and Jonathan Michell. Shurtleff, *Records of the Governor and Company of the Massachusetts Bay in New*, IV-II: 119.

[194] "Mr Secretary Morrice's Answer to the Petition of New England" (2/251664[/5]) *NY Docs*, III: 90-91.

The leaders of Massachusetts acted fast to block the efforts of the commissioners. Early in 1665, rumors that the New England Commission had designs on Bay Colonists' liberty swirled about. "The country" wrote Nicolls in January, "is made to believe that we have put them to 300 l. charge already, and that we intend to exact 12 pence for every acre of land, and 3,000 l. a year besides, and to abridge them of their greatest privileges, liberty of their consciences, and many such."[195] When the Commissioners complained to the General Court of these calumnies, they added that some doubted the legitimacy of their commission as "made under an old hedge."[196] The circulation of these rumors about the illegitimacy and ill-intent of the commissioners was a critical tool in poisoning Massachusetts freemen against them. The Commissioners found that they had "been asked the truth" of the accusations "in several places."[197] Nobody was quite certain what to make of the commissioners.

Even more important than slandering the Commission, the most useful tool of the General Court was simple obstinacy. The colony constantly delayed, demurred, and denied the Commissioners' powers. The most significant conflict was over jurisdiction. The New England Commission had been created to redress the grievances of corporate subjects and shore up royal authority. One part of their Commission explicitly empowered them to hear the complaints of "our good subjects [who] do not enjoy the liberties and privileges granted to them by our several charters" along with those of "the great men and natives of those countries" who complain "of a breach of faith and acts of violence and injustice" at the hands of English colonists.[198] The former required that the Commission be able to effectively intervene to counter the

[195] "Colonel George Cartwright to Colonel Nicolls" (1/25/1664[/5]) *NY Docs*, III: 84.
[196] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts" (5/3-26/1665) TNA, CO 1/19, f 93r.
[197] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts" (5/3-26/1665) TNA, CO 1/19, f 94r.
[198] "Commission to Col Nicolls and Others to Visit the Colonies and Determine Complaints" (4/25/1664) *NY Docs*, III: 64.

Massachusetts corporation's power. The Commissioners, pursuant to their instructions, informed the General Court that as they had received "many complaints against this colony" they would "hear and determine" the several cases. The General Court responded by emphasizing the power they held from their royal charter. According to their interpretation of it, they had "full power… to govern all the people of this place, whether inhabitants or strangers, and for all legal acts, and administrations of government." They noted that the Commissioners were obliged not to interfere with their charter privileges. If that was so, they argued, "the inviolable observation" of the Charter "seems inconsistent with your hearing and determining complaints, and appeals against us." They offered instead to try the cases themselves. The Commissioners, dumbfounded, charged the colonists with putting "a greater value upon your own conceptions than upon the wisdom of his majesty and council." Massachusetts responded that they had nothing but a desire to "give his majesty and yourselves, all due satisfaction" but added the proviso "saving only our duty to God, and the privileges of our charter."[199]

At the heart of the conflict was the question of what, exactly, a charter of incorporation was: was it a contract with the King, which granted autonomy to the Corporation to manage its affairs in his name without royal intervention? Or was it a body created for the purpose of buttressing royal government, which the King could modify if it should fall short? The royal commission and the General Court could not agree. The Commission warned that "his Majesty [is] so highly concerned for his prerogative, which he cannot be supposed to have parted withal, by any privileges or immunities granted in your charter." The General Court responded that, by royal charter, they were the upholders of royal authority, whereas the commissioners' behavior was "inconsistent with the maintenance of the laws, and authority here." They added, "we have

[199] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts," (5/11, 5/22/1665) TNA, CO 1/19, f 110v-111v, 119v.

pleaded only the maintenance of his Majesty's authority, in the government of the people of this colony, according to the rules and prescriptions of his royal charter."[200] These two views of corporate jurisdiction within the English constitution were irreconcilable. To the colony leadership, it was up to them to enforce English laws and liberties, and indeed, to correct those places where English law was deficient, as in its deviations from scripture. To the King, Privy Council, and royal commissioners, as well as to the many corporate subjects who protested the Bay Colony's usurpations, the Crown must have power to correct these abuses, or the corporation would be a commonwealth.

The issue came to a head in May 1665 with the case of one John Porter, Jr. Porter was a resident of Salem who had been imprisoned in Boston jail for 16 months "for rebellion against his parents." Specifically, he claimed that his brother's father-in-law, Captain Hawthorne, wanted to take land that Porter had inherited "to pay his debts," and that he had denied him this. Porter had been sentenced to stand upon the gallows with a noose around his neck, to be lashed with 39 stripes, and to pay a fine of 200 l. He escaped from prison and petitioned the Commissioners for asylum. The Commissioners responded that they would "promise you his Majesty's protection, until your cause be heard by us." They also commanded "all officers both military and civil, and all other persons to suffer this petitioner… to be without all molestation or restraint."[201] The General Court was irate at this supposed usurpation. They condemned the Commissioners for giving "protection to John Porter, Jr, (an high offender against God, his Majesty's authority, laws, and the peace of his good subjects here, who breaking prison, made his escape out of the hands of justice." The granting of asylum, according to the General Court, was "an infringement of our

[200] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts," (5/22-23/1665) TNA, CO 1/19, f 121v, 120r.
[201] "Petition of John Porter, Jr, to the NE Commission," (4/1/1665) TNA, CO 1/19, 67r-v.

privileges granted to us by his majesty's royal charter."[202] The Bay Colony leadership refused to acknowledge the Commission's powers to hear cases against it. In the face of this obstinacy, the Commissioners relented, vowing that if the General Court "will make use of that authority which [the King] hath given you to oppose that sovereignty which he hath over you, we shall not loose more of our labors upon you."[203]

One commissioner, writing to Samuel Gorton of Warwick, Rhode Island, lamented this turn of events. "These gentlemen of Boston would make us believe that they verily think that the King hath given them so much power in their charter to do unjustly, that he hath reserved none to himself to call them to an account… In short, they refuse to let us hear complaints against them, so that at present we can do nothing in your behalf."[204] This was the paramount cause of the Commission's failure. It was designed to work within the system of the Bay Colony's government. The Commissioners aimed to drum up local support for charter renewal, partly by showing the benefits that would confer to corporate subjects from royal intervention. Yet most freemen appear to have been on the side of the General Court which they had elected, especially when the rumors of the ill-intent of the Commission began circulating. By 1665, roughly 60% of men in Massachusetts appear not to have been freemen, which perhaps explains some of the mismatch between Maverick's expectations and the Commission's failures.[205] A tiny minority of non-Congregationalists had been given the freedom of the company in the wake of the King's letter from 1662, but the property requirements placed upon this group were so steep that

[202] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts," (5/23/1665) TNA, CO 1/19, f 121v.
[203] "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts," (5/23/1665) TNA, CO 1/19, f 122v.
[204] "George Cartwright to Mr. Samuel Gorton the Elder" (5/26/1665) TNA, CO 1/19, f 142r.
[205] Richard C. Simmons, "Freemanship in Early Massachusetts: Some Suggestions and a Case Study" *The William and Mary Quarterly* 19, no. 3 (July 1962): 425. This is close to the contemporary estimate offered by Thomas Breedon. "Narrative and Deposition of Captain Bredon" (3/11/1660[/1]) *NY Docs*, III: 40, that 2/3 of the colonial militia were non-freemen.

according to Cartwright they had admitted only "three or four men" by January 1665.[206] The Commission failed because it was premised on the notion – one which Maverick had promised, repeatedly – that the majority of the inhabitants would flock to the royal standard for deliverance from the Bay Colony government. At least among the freemen, this was not true. The minority which governed Massachusetts was wary of intervention, and the power of the Commissioners to act against the wishes of this minority was limited. Subsequent interventions in New England would focus less on internal reform and more on asserting control from without.

The chartering of the East India and Royal African Companies was similarly unsuccessful at securing royal authority, principally due to the outbreak of the Second Anglo-Dutch War and the proliferation of interloping which occurred in its wake. By the Royal African Company's account, the Dutch Admiral De Ruyter had stolen 12,000 l. in company gold, seized Fort Cormentine on the Gold Coast, and taken at least eight ships laden with goods during the war. All told, the Company had lost "twice their stock by the war."[207] The Anglo-Dutch War caused a precipitous drop in the number of slaving voyages by English ships, from a peak of 29 voyages in 1664 to a single voyage in 1669.[208] The disruption to company trade did not dry up demand for enslaved Africans. One author in the late 1660s wrote that "it is not unknown to all persons that understand anything of the nature of settling and planting of colonies in the West Indies, that servants (and especially negro servants) are most considerable in the making all plantations and colonies flourish… and is the only means of making and raising great plantations."[209] The

[206] "Colonel George Cartwright to Colonel Nicolls" (1/25/1664[/5]) *NY Docs*, III: 84. Non-Congregationalists were required to pay "10 shillings at a single rate" which was so exorbitant that "not one Church member in 100 pays so much." "Transactions of his Majesty's Commissioners… with the General Court of the Massachusetts" (5/3-26/1665) TNA, CO 1/19, f 114v.
[207] "Report of the Royal African Company" (Aug 25, 1669) TNA, SP 24/264, f 126r-127r.
[208] SlaveVoyages.org, "Great British" Voyages for 1660-1670.
[209] "Proposals and Reasons for the Encouragement of the Trade of Jamaica the Peopling and Improvement Thereof," (1668/9) Bodleian, Rawlinson MS A 478, f 85r.

planters' insatiable demand for enslaved African laborers made them natural enemies of the Company's monopoly. When the RAC sought to carry on a trade with the Spanish mainland, Governor Francis Willoughby had demanded the Company pay customs on each African captive exported. Charles intervened on the Company's behalf, ordering Willoughby to give them "all just favor" in all cases."[210] The planters had little interest in the RAC exporting slaves to New Spain, a move which would only drive up the price of labor on their plantations. They undermined the Company's efforts any way they could, most egregiously (from the Company's perspective) by purchasing enslaved Africans from the Company on credit and then delaying payment. The laws of Barbados were "framed with such partiality and executed with such iniquity, that justice cannot be obtained against a planter."[211] The shambles De Ruyter had made of the Company's affairs had only made matters worse, as interlopers emerged to meet the demand. The governments of the Caribbean colonies, dominated by planter interests, restricted the Company's ability to protect its monopoly. In 1666, the owners of an interloping ship imprisoned the Company Captain who had seized their ship in Barbados. When the RAC requested Barbados Governor Willoughby transfer the case from Common Law to the Court of Admiralty, he refused. The Company in turn petitioned the King, who ordered Willoughby to "transmit the whole case" to the Privy Council, "his Majesty intending to take cognizance thereof himself."[212] Willoughby's death in summer 1666 delayed the Company's satisfaction – two years later the Privy Council sent another letter demanding the materials from this case.[213]

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[210] "Petition of the Company of Royal Adventurers Trading into Africa to the King" (Nov? 1663) and "The King to Lord Willoughby of Parham, Governor of Barbados" (11/20/1663) TNA, CO 1/17, f 234v-236v. Abigail Swingen has documented this controversy: Swingen, *Competing Visions of Empire*, chapter 3.
[211] "Report of the Royal African Company" (8/25/1669) TNA, SP 24/264, f 127r-128r. The Company had complained that colonists were not paying debts since gaining their monopoly in 1663.
[212] "The Privy Council to Francis, Lord Willoughby" (4/6/1666) in Elizabeth Donnan, Ed., *Documents Illustrative of the History of the Slave Trade to America*, Elizabeth Donnan, ed. (Washington, DC: Carnegie Institute of Washington, 1930), I: 168-9.
[213] "A Letter to the Lord [William] Willoughby of Barbados" (1/31/1667[/8]) TNA, PC 2/60, f 81v-82r.

The interlopers fought the Company in London as well as Bridgetown. With the War's end in 1667, a group of men interested in the plantations petitioned the House of Commons against the Company, charging that its monopoly and trade with Spanish America left the English colonies "either ill supplied, and at excessive prices, or not at all supplied" causing the "decay" of all the plantations of America. Only by restoring the former "freedom of trade" for African slaves could the demise of the English colonies be averted. The Company published their response, claiming that under their care the plantations were well supplied, the customs flush with cash, and the exports to Africa at new heights.[214] In 1669, the Royal African Company appears to have suggested the institution of a Major General in Jamaica who would "absolutely prevent interloping" and preserve the Company's interest on the island.[215] In 1667 the RAC re-published its Declarations from January 1663, pledging that it would provide enslaved Africans to English planters at low rates.[216] In the late 1660s, the RAC felt that its hold on its monopoly was tenuous at best. Over the course of the ensuing decade, the Company would repeatedly turn to the King to strengthen its capacity to enforce its trading privileges.

In the East Indies in the late 1660s, as in the Atlantic, the joint stocks were most immediately concerned with regaining their footing after the thrashing they received from the Dutch. A petition submitted by the EIC to the Privy Council on 3 April 1668 about ways to settle the East India trade made no mention at all of interloping, instead focusing entirely on establishing peaceable relations with the Dutch.[217] But once these peaceable relations were

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[214] *An Answer of the Company of Royal Adventurers of England Trading into Africa to the Petition and Paper of Certain Heads and Particulars Thereunto Relating* (London: RAC[?], 1667) 1-2, 5. Ferdinando Gorges was one of the signatories of the petition to the Commons. The petition was submitted to the House on November 15, 1667. *CJ*, IX: 21.

[215] "Some Reflections on the Royal African Company's Interest in the Plantations and the Use of a Major General in the Island of Jamaica," (1669?) BL, Egerton MS 2395, ff 466r-467r.

[216] *The Several Declarations of the Company of Royal Adventurers of England Trading into Africa* (London: RAC[?], 1667).

[217] "Petition of the EIC" (4/3/1668) TNA, PC 2/60, f 128v.

(temporarily) established, it did not take long for the EIC to begin vigorously prosecuting "private trade" once again. In November 1668 the Company secured Commissions for "persons fit to be employed in the seizing of all prohibited goods." In January 1669, the Company had notice of illicit pepper and broad cloth imports, and of lead exports, and ordered the Committee for Private Trade to "cause due proceedings at law" against all interlopers.[218] Towards the end of that year the Court of Committees learned that their chief factor at Mesulapatam had "contemned the Company's orders" "carried on a private trade… in India [and] out and home" and "made use of [the Company's] stock for his private advantage."[219] The situation was also not helped by the constant agitation of Thomas Skinner, who had had his ship, warehouse, and the island of Barella seized in 1658 when the Company received its monopoly from Cromwell. Multiple times throughout the 1660s, Skinner petitioned the King and Parliament, "purporting great oppressions and spoils sustained by him in the Indies from the East India Company."[220] By Skinners' reckoning, between the losses incurred at the Company's hands and the fees required to appeal to the Council and Lords, the EIC owed him over 18,000 l.[221] Lord Berkeley attested to the "trouble and charge Mr. Skinner had put the Company unto" over the course of the 1660s.[222] The granting of a royal charter had by no means settled the conflicts over the Company's corporate privileges, which would only become more acute in the 1670s.

So it was that by the late 1660s, all three attempts to shore up monarchical power using corporations attempted at the Restoration had failed. The purges mandated by the Corporation

[218] "Court Minutes" (11/25/1668-1/29/1668[/9]) BL, IOR/B/30, pp 348, 362, 366-7, 381, 383.
[219] Court Minutes, (9/30/1669) BL, IOR/B/30, p 548.
[220] Denzil Holles, *The Grand Question Concerning the Judicature of the House of Peers, Stated and Argued* (London: Richard Chiswel, 1669), 2.
[221] "Petition of Thomas Skinner to the King" (undated, but after Feb 11, 1669/70) TNA, SP 29/251, f 159r.
[222] Court Minutes, (1/29/1667[/8]) BL, IOR/B/30, p 198. Skinner's case became a major controversy in Parliament before Charles ordered the Lords and Commons to drop the case. "King's Speech to the Commons" (2/11/1669[/70]) *CJ*, IX: 126.

Act had been spottily applied and lapsed entirely once they fell to the corporations to apply. The New England Commission had sought to work within the paradigm of Bay Colony politics but had failed to gather sufficient support among the freemen of Massachusetts to elect a General Court favorably inclined towards charter renewal. And the joint stocks, which had just received so many royal privileges, were destroyed from without by the Dutch and from within by interlopers eager to trade in their absence. In addition to failing to secure monarchical power, the attempted interventions had not meaningfully settled the ongoing conflicts between corporations and corporate subjects. In the late 1660s and throughout the 1670s, these groups would petition the Crown to bolster corporate authority or to extend royal control. The self-evident failures of the initial interventions, designed to bolster royal authority by working with corporate governments, coupled with the escalating opposition to royal prerogative, would ultimately lead to ever more radical and absolutist modes of intervening.

Conclusion

The end of the Clarendon ministry marks the conclusion of the first phase of Restoration corporate policy. The conservative, collaborative policies favored by Clarendon had failed to stabilize the monarchy or to resolve the controversies which continued to rage between corporate governments and their subjects. In New England, conflict over governing authority would continue for decades, as corporate plantations sought to extend their boundaries at one another's expense. Petitions against Massachusetts would continue to roll in, most notably from proprietors of the northern colonies of New Hampshire and Maine. The Crown had failed in New England on two fronts: it had failed to curb the arrogant defiance of the Calvinist leadership, and it had failed to secure the liberties of dissenting subjects. The grievances of those subjects who suffered

under Massachusetts would eventually lead to the arrival of Edward Randolph in the region, and ultimately to the erection of the Dominion of New England.

In the English municipalities, controversy likewise continued to brew. Flagrant violations of the Corporation Act were numerous and embarrassing, undermining royal authority each time they cropped up. Though the tide of petitions for office had largely run dry, warnings of usurped authority and dissenters' defiance continued to come into Whitehall. Corporate subjects in the municipalities, fearful of the return of Civil War, would help to keep these fears alive for the Crown. When, in the late 1670s, the political situation would reach its nadir, the cries for royal intervention in the corporations from the "loyal party" would reach its apogee. The Corporation Act had failed to bring peace to England's towns.

The joint stocks had received their most grievous blows, not from English interlopers, but from the Dutch, who battered the East India and Royal African Companies mercilessly. Yet if the Anglo-Dutch War had made clear Dutch supremacy on the seas, it had likewise forced the joint stocks to be more concerned with maintaining their monopolies over English markets. Unable to prevent the Dutch from trading altogether, they could at least hope to exclude English interlopers from cutting into their market shares. For this, they would need the assistance of the monarchy. Charles II, always strapped for cash and now reeling from a costly war, would prove only too happy to oblige.

The failure of the Clarendon interventions to secure subjects' rights and royal stability set the stage for the corporate policy the crown would adopt in the early 1680s. It was to be a decade of escalation, experimentation, and enforcement, punctuated throughout by rising political tensions and climaxing in the fear of a new Civil War. Clarendon, the constitutional conservative,

had left the stage. In the wake of the Exclusion Crisis, Lord Chief Justice of the Court of Common Pleas Francis North would chart a new course.

"Let Evil Corporations Take Care":

Political Crisis and the New Corporate Policy in Whitehall, 1678-1683

Introduction

In the four years of the Tory Reaction, from the dissolution of the Oxford Parliament on March 28, 1681, to the death of King Charles II on February 6, 1684/5, 59 municipal charters passed the Great Seal of England. This was a staggering sum. It was almost four times the number to pass the Seal in the entirety of the 1670s (16), and nearly as many as had passed in the 1660s (66) when the Restoration of the monarchy and the Corporation Act had led many corporations to request confirmations of their patents alongside new municipal privileges. The distribution across these years was extremely lopsided. No charters passed between the Oxford Parliament and the end of December. In 1682, eight charters passed the seal, more than in any single year since 1665. Seven more passed in 1683. In 1684, a jaw-dropping 38 charters passed the Great Seal, the most in any single year of Charle's reign. In the first 37 days of 1684/5, six charters passed the Seal – a rate of more than one per week. All told, roughly 30% of England's 200 municipal corporations received new charters during the Tory Reaction. At the death of Charles II, dozens more were pending passage – 45 charters would pass the seal in the first two months of the reign of Charles's brother and successor, James II.[1]

What accounts for the dramatic increase in the number of municipal charters which passed that Great Seal in the final years of Charles II's reign? How and why did the contents of these new charters differ from their predecessors? The historiography offers us no shortage of

[1] Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998), Appendix A, 350-1. There were approximately 200 municipal corporations in England and Wales in 1680. Ibid, xi, 172.

explanations.[2] The bulk of the debate has centered on three interrelated questions: first, did the desire for new charters for borough corporations during the Tory Reaction originate in Whitehall or in the localities? Second, what was the motivation for corporate reform? Finally, to what extent were those motivations, and thus the project, continuous with earlier dynamics of corporate reform?

The Whiggish interpretation, dominant in the 19th and most of the 20th century, understood the attack on municipalities as a royal imposition on an unwilling populace intended, in the words of GM Trevelyan, "to destroy local self-government." Charles's reforms brought an end to "local government and parliamentary independence," ensuring that henceforth "the towns would be governed, and the borough members [of Parliament] chosen, by the king's party alone."[3] JH Sacret called the remodeling effort a "generally unpopular" "extension of the royal prerogative at the expense of ancient and cherished… rights of municipal self-government." For these historians, the primary significance of the municipalities was as parliamentary constituencies – the struggle between crown and town appears as a rearguard action in the Stuart's perennial conflict with the House of Commons. "The primary object of the policy," wrote Sacret, was "securing control over elections to future parliaments."[4] Jennifer Levin agrees, noting that "the real importance of the boroughs lay in the fact that the majority of MPs were returned by them."[5] According to these authors, the rechartering effort of the 1680s was perfectly in keeping with the Stuart monarchs' long-held absolutist ambitions. The campaign against the

[2] Given that this chapter and that which follows analyze the corporate policy of the 1680s in Whitehall and the municipalities respectively, it is hoped that readers will excuse the lengthy treatment that follows. The most comprehensive examination of this historiography to date is in Halliday, *Dismembering the Body Politic*, 192-196.
[3] George Macaulay Trevelyan, *England Under the Stuarts*, 13th ed. (London: Methuen & Co. LTD, 1926), 424.
[4] J.H. Sacret, "The Restoration Government and Municipal Corporations," *The English Historical Review* 45, no. 178 (April 1930): 232.
[5] Jennifer Levin, *The Charter Controversy in the City of London, 1660-1688, and its Consequences* (London: The Athlone Press, 1969), 2-7.

municipal corporations was "a policy which had long been contemplated," writes Sacret, employing "essentially similar measures… since the beginning of Charles's reign."[6] In sum, the traditional explanation for the corporate policy of the 1680s was that it was royally directed, aimed to control parliament, and continuous with earlier efforts to regulate corporations for that end.

In his 1977 dissertation entitled "The English Boroughs and the King's Government," Robert Pickavance offered what we might consider a qualification of the Whig story. While he agreed with the older historiography that the origin of corporate reform lay in Whitehall, Pickavance argued that "government policy was tailored to suit local needs and not arbitrarily imposed on an unwilling nation" and that this project was defined by "moderation and compromise" between royal objectives and local Tories.[7] Furthermore, the primary ambition of this policy was not controlling parliament, but controlling local courts. "The control of the administration of justice throughout the kingdom was the first priority of a government bent on destroying the opposition."[8] Pickavance saw this royal project as essentially continuous with earlier efforts. "Charles II envisaged the systematic limitation of municipal corporations in the early 1660s," he writes, and throughout the reign "hardly a year elapsed without a corporation succumbing to government pressure to be reincorporated."[9] The Exclusion Crisis merely inspired a greater seriousness to pursue goals the crown had held since 1660. For Pickavance, the borough campaign of the Tory Reaction was a royally directed policy moderated by local actors,

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[6] Sacret, "The Restoration Government and Municipal Corporations," 233; Levin, *The Charter Controversy in the City of London*, 8-16.
[7] Robert Pickavance, "The English Boroughs and the King's Government: A Study of the Tory Reaction, 1681-85" (PhD Diss, Oxford University, 1977), v, 109-110, 138-139, 186-188, ch. 3 ("Policy-making"), 216-7.
[8] Pickavance, "The English Boroughs and the King's Government," iv, 16-18, 19-22, ch. 2 ("The New Charters and their effect on Parliamentary Representation"). Robert John Sinner had likewise challenged the centrality of parliament to the corporate policy. Sinner, "Charles II and Local Government: The Quo Warranto Proceedings, 1681—1685" (PhD Diss., Rutgers University, 1976), 26, 37-38, chapter 5.
[9] Pickavance, "The English Boroughs and the King's Government," ii, 11, 36-46.

occasioned by the crown's desire to secure control over the administration of justice, and continuous with earlier efforts.

If Pickavance qualified the traditional Whig story by describing how royal policy was moderated by local interests, a group of revisionist scholars in the 1980s rejected it entirely by challenging the idea of a royal policy in the first place. Charles II was an unserious king, a man "unwilling to put in the effort required to retain an overall grasp of the business of government," possessed of "cautious and legalistic" ministers unwilling to advocate sweeping reforms. "The impetus behind the Tory Reaction," wrote John Miller, "came from the Tories, not the crown," which simply "reacted to events and to the initiatives of others." Regarding the "new charter policy" of the 1680s, "the initiative for the surrenders of old charters, and the granting of new, clearly came from the local Tories." While mass rechartering was novel, these new charters were not radically transformative. The local Tories behind the surrenders "were conservative," Miller adds, meaning "they would not approve of major changes in the form of government, especially local government." Instead, their reforms aimed modestly at "preserving the status quo."[10] In his study of the Tory Reaction in three Kentish boroughs, Colin Lee agreed with Miller. "Reincorporation," Lee wrote, "was principally a response to local demands rather than part of a policy of centralization." "The principal purpose" of the charters issued to Dover, Canterbury, and Sandwich in 1684 "was not constitutional innovation, but the establishment of Anglican loyalists in power." The new charters gave the crown "only a limited weapon" to remove officers, and no power to "remodel corporations."[11] For revisionists, borough remodeling was a

[10] John Miller, "The Potential for 'Absolutism' in Later Stuart England" *History* 69, no. 226 (1984): 195-197; John Miller, "The Crown and the Borough Charters in the Reign of Charles II" *The English Historical Review* 100, no. 394 (Jan 1985): 56, 74, 79-82; John Miller, *Cities Divided: Politics and Religion in English Provincial Towns, 1660-1722* (Oxford: Oxford University Press, 2007), 182.
[11] Colin Lee, "'Fanatic Magistrates': Religious and Political Conflict in Three Kent Boroughs, 1680-1684" *The Historical Journal* 35, no. 1 (Mar. 1992): 59.

conservative project engineered in the localities that aimed simply at ensuring "the powers of municipal officials and magistrates… were exercised by loyal men."[12]

In a move that mirrors Pickavance, Paul Halliday offers a qualified revisionist account, one in which local projects for corporate reform were coopted and transformed by the Crown. Acknowledging a debt to Miller and Lee, Halliday "go[es] one step further" in suggesting that "local initiative not only produced charter surrenders, but also prompted those around the king to formulate an aggressive, comprehensive policy for remodeling England's corporations."[13] For Halliday, the essential fact of corporate politics after the Civil War was not tension between crown and borough but intestinal conflicts and social division around "religious sympathies and personal angers." He sees recurrent cycles of purge and counterpurge waged against the background of "crown passivity" and indifference. It was only "the political dangers confronted in the wake of the 'Popish Plot' and the vexed Parliaments of 1679-81" which prompted "the once passive king" "to take a more stern view of corporations." The Exclusion Crisis radicalized the crown, making it willing to "make the most of local partisan energies" after the Oxford Parliament, initially to gain control of the borough magistracy but ultimately to "control corporate membership and decision making as well." In the years following, Charles's chief ministers began to articulate a royal policy, so that by 1683 "local initiative was no longer the greater part of the rechartering story, as in the 1660s and 70s."[14] Halliday's story is thus one of continuity within the towns and discontinuity at Whitehall.

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[12] Miller, "The Crown and the Borough Charters in the Reign of Charles II," 55.
[13] Halliday, *Dismembering the Body Politic*, 195. Halliday lumps Pickavance in with Miller and Lee, noting that he, too, places great stock on local support for royal intervention. Yet Miller and Lee both reject any idea of a royal policy, which is central to Pickavance's thesis, and distinguish their position from his. See Miller, "The Crown and the Borough Charters in the Reign of Charles II," 76n1; Miller, *Cities Divided*, 181n16; Lee, "Fanatic Magistrates," 44. On my read, while Halliday and Pickavance both highlight the importance of royal and local forces in shaping the borough policy, they reverse the causality.
[14] Halliday, *Dismembering the Body Politic*, xii-xiv, 108, 117-8, 124, 145, 177, 187-8, 192, 195-6, 212.

For almost three decades, Halliday's account has been the dominant narrative of late-17th century corporate politics. There are good reasons for this – it is doubtless the most adroit treatment of the legal aspects of the subject available, and it expertly weaves local and central factors in a way that breaks beyond the Whig-revisionist binary. Yet as an account of partisan politics in the late-17th century, Halliday's account is marred by two methodological decisions. The first has to do with his treatment of the content of politics. While ideology is "the core of partisan identity," writes Halliday, it is also "too slippery for careful analysis of the origins and development of partisan politics." "Parties," he adds, "were clearly more than competing sets of ideas; they were people organized around certain ideas, organized by one or more leaders' coordinating efforts." In lieu of a focus on ideological genealogy, Halliday suggests partisan groups "were identifiable by their durability and coherence… by the organization that gave such groups shape and impetus" and by the "leadership" that "brought such groups together around shared interests." Halliday is much more concerned with the processes through which those groups interacted – "the activity of dividing and excluding" that he calls partisan politics – than with the ideas supposedly at the "core of partisan identity." He characterizes the principal shared interest around which partisan groups organized after the Civil War as a dispute over "the role religious identity should play in determining one's fitness to participate in political life."[15] In sidelining ideology, Halliday reduces political division to a kind of teams-based, ingroup-outgroup dynamic. Partisan identities like religion served only to set the machinery of "partisan politics" in motion – they do not shape its course, and they appear to be largely static across the period.

[15] Halliday, *Dismembering the Body Politic*, xii, 5-11.

This complements the second methodological quirk of Halliday's analysis: the rejection of "instability" or "crisis" as useful frameworks for understanding the politics of Restoration England. Reflecting on the historiography of the 1990s, Halliday observes that "the entire period post-1660" appears to be "one of constant crisis." He argues that a focus on the press, parliament, and leading figures of the age has distorted our understanding of the period, causing us to mistake partisan propaganda for reportage. After all, despite the hue and cry of Tory propagandists, civil war did not rematerialize in the 1680s, and England's hundreds of municipal corporations continued to offer "effective urban government" throughout Charles's reign.[16] It seems that only in Whitehall did the political events of 1678-81 meaningfully affect corporate politics. It is fair enough to say that "crisis" loses meaning when applied indiscriminately. It is likewise appropriate to distinguish between belief in crisis and the actual breakdown of governing capacity. Yet by ignoring the role of ideology, and thus the ways that ideology changed over time, Halliday misses the all-important questions: *whose* governing capacity, and *whose* belief?

This chapter and the one that follows offer a reinterpretation of the corporate politics of the Exclusion Crisis and the Tory Reaction. I argue that the corporate policy of the 1680s was intimately bound up with the changing beliefs of actors in the "crisis" years of 1678-1683. National political events in these years polarized political belief in Whitehall and in England's municipal corporations, inspiring a novel approach to corporate regulation developed by royal officers and embraced by Tories across the nation. The present chapter charts this process in Whitehall and described the anxieties and ambitions that prodded Charles II and his ministers to

[16] Halliday, *Dismembering the Body Politic*, 22-24. Halliday likewise emphasizes the historiography of "renaissance" running through the same period, although it is intriguing to note how much of that historiography appears to focus on the period after 1688. *Ibid*, 24n72-n73.

develop a new corporate policy in the early 1680s. I contend that in 1680 the Exclusion Crisis prompted Charles and his ministers to attempt to enforce the Corporation Act for the first time in order a decade, a maneuver that only demonstrated how ineffective the Act was for preserving royal supremacy over chartered boroughs. The consequences of this lax control were on full display in 1681, when London and other corporations used their jurisdictional autonomy to shelter nonconformists and political enemies of the crown from royal justice. In the wake of Shaftesbury's *ignoramus* in November 1681, Charles became convinced that London had been taken over by a faction and resolved to seize the City's charter. In response, Sir Francis North and other royal counselors articulated a program for regulating London and the rest of England's corporations to crush the political power of the Whigs. The chapter concludes by examining the political and ideological dimensions of *Rex v. London*, the case that posed the greatest obstacle to the regime's new corporate policy. The next chapter will deal with the effects of political polarization and ideological change in England's towns to explore the ways that those forces shaped the willingness of freemen to cooperate with the new policy, and thus its effectiveness.

The Exclusion Crisis and the Corporation Act

The corporate policy of the 1680s was a direct response to the years of governmental gridlock and ideological polarization that is still mislabeled the "exclusion crisis."[17] The crisis began in 1678, but it was built on a set of anxieties with roots earlier in the decade encapsulated

[17] An older historiography saw politics in these years as narrowly centered on the issue of exclusion: J.R. Jones, *The First Whigs: The Politics of the Exclusion Crisis, 1678-1683* (London: Oxford University Press, 1961), 1-19, 211-7. Yet since the 1990s historians have described a more general crisis of "popery and arbitrary government" which better encapsulates the variety of issues at stake. Mark Knights, *Politics and Opinion in Crisis, 1678-1681* (Cambridge: Cambridge University Press, 1994), 3-5, 348-368; Jonathan Scott, *England's Troubles: Seventeenth-Century English Political Instability in European Context* (Cambridge: Cambridge University Press, 2000), 182-205, 434-454. It seems likely that the "exclusion" label will persist until a similarly pithy one emerges to replace it, and I use it here as a shorthand.

in the slogan "popery and arbitrary government." "There has now for diverse years," thundered Andrew Marvell in his wildly successful *Account of the Growth of Popery and Arbitrary Government* of 1677, "a design been carried on, to change the lawful government of England into an absolute tyranny, and to convert the established protestant religion into down-right popery."[18] Certainly, Marvell did not have to cast about far for evidence. While Catholics had been a presence at court since 1662, when Charles married the Portuguese *infanta* Catherine of Braganza, in the early 1670s they increased rapidly in number and influence. In the wake of the Test Act, which required all ministers of state to take an oath against transubstantiation, several prominent courtiers resigned, among them James, Duke of York, the king's brother and Lord High Admiral, and Thomas, Lord Clifford, the Lord Treasurer. James's marriage to Mary of Modena, a Catholic princess from Italy, likewise caused a stir. In 1671 Charles began an affair with a Frenchwoman named Louise de Querouaille, creating her Duchess of Portsmouth in 1673.[19] Marvell lamented that "it is now more than one age, that the subjects have lived in continual apprehension of increase of Popery, and the decay of the Protestant religion."[20] For many contemporaries, the growing power of Catholics at court signified the decline of the protestant interest.

Alongside these anxieties about the growth of popery, fears about arbitrary government likewise bloomed during the 1670s. The focus of these anxieties was the relationship between the Lord High Treasurer Thomas Osborne, Earl of Danby, and the Cavalier Parliament. The parliament had first sat in 1661 and would continue to sit until 1679. The great duration was

[18] Andrew Marvell, *An Account of the Growth of Popery and Arbitrary Government in England: More Particularly from the Long Prorogation of November, 1675, Ending the 15th of February 1676, till the Last Meeting of Parliament, the 16th of July 1677* (Amsterdam: 1677), 3.
[19] John Spurr, *England in the 1670s: This Masquerading Age* (Oxford: Blackwell, 2000), 45-7, 50-1; John Miller, *Popery and Politics in England, 1660-1688* (Cambridge: Cambridge University Press, 1973), 108-153.
[20] Marvell, *Account of the Growth of Popery and Arbitrary Government in England*, 48.

itself a grievance, as the lack of frequent elections tended to make MPs less useful as representatives of the people. Anthony Ashley Cooper, Earl of Shaftesbury, argued in 1675 that a new parliament had become necessary because it was not agreeable "with the nature of representatives to be continued for so long a time… the mutual correspondence and interest of those who choose and are chosen, admitting of great variations in length of time."[21] As the 1670s wore on, Danby exacerbated this divide between the people and their representatives, embarking on a project to manage the Commons by distributing over £ 250,000 from the royal treasury to MPs as bribes from 1676-79.[22] Danby's close alliance with the bishops likewise gave the court significant power in the Lords. Danby's management, the frequent prorogations of parliament, and the infrequency of elections seemed to some observers to be changing the constitution of England, undermining Parliament's capacity to serve as a forum for airing subjects' grievances and turning it merely into an organ of the court. In England, wrote Marvell, "the subjects retain their proportion in the legislature; the very meanest commoner of England is represented in Parliament." Yet in Danby's designs Marvell perceived a project "to make that monarchy absolute."[23] The government of England in Church and state was in grave danger by the late 1670s.

The embodiment of these fears, and in many ways their source, lay across the channel in the French court at Versailles. It had been Louis XIV, the most powerful Catholic monarch in Europe, who had "set in motion" the marriage between the Duke of York and Mary of Modena, a marriage which many believed had brought a papist spy into England to "pierce into the most

[21] Anthony Ashley Cooper, *Two Seasonable Discourses Concerning this Present Parliament* (Oxford: 1675), 1-3.
[22] Mark Knights, "Osborne, Thomas, first duke of Leeds (1632-1712)" in *Oxford Dictionary of National Biography*, October 4, 2008, https://doi.org/10.1093/ref:odnb/20884; Marvell, *Account of the Growth of Popery and Arbitrary Government*, 70.
[23] Marvell, *Account of the Growth of Popery and Arbitrary Government*, 3, 14.

secret counsels of his Majesty, and discover the state of the realm."[24] Englishmen likewise recognized that the rise of Duchess of Portsmouth was attributable to the efforts of the French ambassador, who clearly designed the advantage of the Sun King in the affair.[25] It was through such subtle means as these that France "supports this root of popery among us," thundered Sir Henry Capel.[26] As for arbitrary power, it was Louis XIV's lavish bribes which helped fund Danby's system of patronage and made it possible for Charles to rule without parliamentary supply.[27] French intrigues were the wellspring for the anxieties about popery and arbitrary government. Yet France served another function in the English imagination, offering grim portents for the future. Did not Danby's efforts to do away with Parliament reflect the decline of the Estates General over the preceding century? When the Estates had sat, wrote one pamphleteer in 1679, the French monarchy had been "the best tempered one" in Europe. But the Estates had not been called since 1614. Now, France was governed by "an absolute monarchy, imposed upon the people by a standing, illegal, and oppressive army." The French labored under "the yoke of oppression," subject to "the double tyranny of popery and arbitrary power."[28] "French government" had become a byword for arbitrary rule. Little wonder that when Englishmen wrote

[24] Allen B. Hinds, Ed., *Calendar of State Papers and Manuscripts, Relating to English Affairs Existing in the Archives and Collections of Venice, and in other Libraries of Northern Italy* (London: His Majesty's Stationery Office, 1940), XXXVIII: 118-9, 125-6; Marvell, *Account of the Growth of Popery and Arbitrary Government*, 48.
[25] *Seventh Report of the Royal Commission on Historical Manuscripts* (London: Her Majesty's Stationery Office, 1879), I: 489 (10/4 and 10/19/1671).
[26] Anchitell Grey, Ed., *Debates of the House of Commons, from the Year 1667 to the Year 1694* (London: D. Henry and R. Cave, 1763), VII: 149 (4/27/1679).
[27] "Proposals sent to Mr. Montagu and returned with Alterations" (3/25/1678) in Andrew Browning, Ed., *Thomas Osborne, Earl of Danby and Duke of Leeds* (Glasgow: Jackson, Son & Co., 1944), II: 348-9; Steven C.A. Pincus, "From Butterboxes to Wooden Shoes: The Shift in English Popular Sentiment from Anti-Dutch to Anti-French in the 1670s" *The Historical Journal* 38, no. 2 (June 1995): 357-359.
[28] *Popery and Tyranny, or, the Present State of France in Relation to its Government ... wherein may be seen the Tyranny the Subjects of France are Under, being Enslaved by the Two Greatest Enemies to Reason, as well as to Christian or Human Liberty, I Mean Popery and Arbitrary Power* (London: 1679), 1.

of the rise of popery and arbitrary government, they talked of a project "to introduce a French slavery, and… a Roman idolatry."[29]

Such was the kindling that the disgraced former Jesuit Titus Oates ignited in Autumn 1678 when he made his bogus "revelation." On September 28, 1678, Oates testified before a special session of the Privy Council about "a conspiracy of the Jesuits against the life of his Majesty," a plot to shoot (and/or poison) Charles II which Oates claimed to have discovered during his training at the English College at Valladolid and the College of St. Omers. The most alarming aspect of Oates's testimony as it developed in the ensuing weeks and months was his accusation that two Catholics at Court – Edward Coleman, Secretary to the Duke of York, and Sir George Wakeman, physician to Queen Catherine of Braganza, were in on the plot. Coleman, Oates claimed, had been in "correspondence with Mr. La Chaise, confessor of the French king," supposedly as part of a conspiracy to give England over to France after the assassination. Over the course of his initial discourse on September 28 his listeners shed their initial skepticism, gradually becoming convinced of the reality of "some danger and mischief contrived against his Majesty." A search of Coleman's papers revealed that he had, as Oates alleged, been "in correspondence with the King of France's confessors" for "the bringing in of the Romish religion, and the extirpation of the Protestant" as well as "the advancing the interest of the French King" and the dissolution of Parliament. The whole, concluded a report from Lord Chancellor Heneage Finch, tended to "the destruction of your Majesty and the subversion of your Majesty's government."[30] As arrests followed and news of the plot began to spread beyond Whitehall, another event added further verisimilitude to Oates's allegations. On October 17 the

[29] Marvell, *Account of the Growth of Popery and Arbitrary Government in England*, 3, 14; Grey, *Debates of the House of Commons*, VII: 259 (5/11/1679).
[30] TNA, PC 2/66, pp 392-5 (9/28/1678), 396 (9/29/1678), 421 (10/16/1678); JP Kenyon, *The Popish Plot* (London: Heinemann, 1972), 45-76.

body of Sir Edmundberry Godfrey, the Justice of the Peace to whom Oates had first divulged the plot, was found near Primrose Hill, three miles outside of London, strangled and run through with his own sword. Godfrey's death was ruled a "wilful murder" and was speedily blamed on "some papists" desiring to protect their "treasonable design" from Godfrey's diligent investigation.[31] With London abuzz with panic and Parliament set to convene the following week, the Duke of York was "afraid" that "all these things happening together will cause… a great flame in the Parliament… for those disaffected to the government will inflame all things as much as they can."[32] When Charles opened the session with a speech acknowledging "a design against my person, by the Jesuits" and others "tampering in a high degree by foreigners, and contriving how to introduce Popery amongst us" he set off a political firestorm.[33] The Cavalier Parliament was finally dissolved in January 1679, and new elections called.

At the start of the First Exclusion Parliament, members were not yet clearly distinguished into Whigs and Tories as they would be a year later. Virtually all were concerned about the growth of popery and arbitrary government embodied by absolutist France and the specter of the popish plot outlined by Oates. Yet over the course of the parliament, many MPs began to coalesce upon a shared set of radical solutions to these problems, solutions which ultimately became the hallmarks of Whiggery – the most significant of which was the exclusion of the Duke of York from the line of succession. The exclusionists began from the premise that the twin specters of popery and arbitrary government were intertwined. A free people could only accept arbitrary government through the constraint of their reason, and popery represented the greatest

[31] *A Full and Certain Relation Concerning the Horrid Plot of the Papists, and the Barbarous and Bloody Murder of Sr. Edmund-Bury Godfrey* (London: Lawrence White, 1678), 3-8.
[32] "Duke of York to William of Orange" (10/18/1678) TNA, SP 8/3, ff 133r-v.
[33] "His Majesty's Speech" (10/21/1678) *Journal of the House of Lords* (London: His Majesty's Stationery Office, n.d.), XIII: 293. Hence *LJ*.

constraint of all. "Popery," wrote Andrew Marvell, was "such a thing as cannot, but for want of a word… be called a religion." Priests possessed sole knowledge of the Bible, enabling them to "vitiate, suppress, or interpret [them] to their own profit," enthralling the people to the grossest superstitions. With the scriptures restricted to their private cabals, there was "nothing so monstrous to reason, so abhorring from morality, or so contrary to scripture" that they could not force it on the populace.[34] By deluding the people as to the requirements for their salvation, popery created a population that was docile and pliant, even to arbitrary power. For this reason, MP Henry Capel argued, "the notion of a standing army and arbitrary power" came "from popery." "Lay popery flat," he advised, "and there's an end of arbitrary government... It is a mere chimera, or notion, without popery."[35] How, then, could popery be laid flat?

The most obvious step was to continue the investigation and prosecution of the plot. The Commons began the session by declaring their satisfaction that there was "a horrid and treasonable plot and conspiracy, contrived and carried on by those of the popish religion, for the murdering of his Majesty's sacred person; and for subverting the protestant religion, and the ancient and well-established government of this kingdom."[36] Bills for ousting Catholics from London and Westminster were duly brought in, and the five lords whom Oates had alleged played a role in the plot were imprisoned in the Tower.[37] Yet while these addressed the immediate context of the plot, they did little to treat the underlying disease – suppressing papists and prosecuting the plotters would only invite future plots. Gradually, over the course of the first parliament many of the MPs who would ultimately fall under the moniker "whigs" coalesced

[34] Marvell, *An Account of the Growth of Popery and Arbitrary Government in England*, 5-7.
[35] Grey, *Debates of the House of Commons*, VII: 149 (4/27/1679).
[36] *Journal of the House of Commons* ([London]: The House of Commons, 1803), IX: 574 (3/24/1678[/9]). Hence *CJ*.
[37] *LJ*, XIII: 299 (10/23/1678), 301 (10/25/1678); *CJ*, IX: 605 (4/27/1679); Kenyon, *Popish Plot*, 77-131, Appendix B; Miller, *Popery and Politics*, 154-188.

upon a third proposal for securing the kingdom against popery for the future: the exclusion of the Duke of York from the line of succession.

On April 27, 1679, the Commons formally resolved that "the Duke of York's being a papist, and the hopes of his coming to the crown" had "given the greatest countenance and encouragement to the present conspiracies… against the King and the Protestant religion."[38] When Lord Chancellor Heneage Finch addressed them days later and pledged the King's willingness to do anything "which may further secure religion and liberty against a popish successor, without defeating the right of succession itself," the Commons rebuffed him.[39] When they sat down to debate what measures were necessary to secure the kingdom on May 11, George Treby, MP for Plympton, delivered a bundle of papers purporting to implicate the Duke of York in the popish plot. These letters pushed many MPs to embrace exclusion as the best possible option. "By the report of the letters you have heard today," said Sir Thomas Player, "it is most visible… from whence all the dangers the king has been in… do come; which is, from the prospect of a popish successor." John DuBois agreed, stating "unless, by some vote, you determine the succession, you will never put the papists out of hopes of accomplishing their design." John Knight added "it is impossible that the protestant religion should be preserved under a popish prince." Sir George Hungerford put the point simply. "As long as the Duke is heir to the crown, the kingdom is unsafe."[40] That afternoon, upon a vote, the Commons resolved to bring in a bill to "disable the Duke of York to inherit the imperial crown of this realm."[41] The bill proceeded through two readings, and seemed on its way to the House of Lords when Charles prorogued parliament on May 27.

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[38] *CJ*, IX: 605 (4/27/1679). Debate over the wording is in Grey, *Debates of the House of Commons*, VII: 147-151.
[39] *CJ*, IX: 607-8 (4/30/1679).
[40] Grey, *Debates of the House of Commons*, VII: 238, 239, 240, 243, 244, 258-9 (5/11/1679).
[41] *CJ*, IX: 620 (5/11/1679). Cf. Knights, *Politics and Opinion in Crisis*, 29-54.

Charles saw exclusion as an unacceptable encroachment on the royal prerogative. He spent much of the 16 months between the proroguing of the First Exclusion Parliament and the sitting of the Second seeking to divide and undermine its proponents. The laws against dissent provided the readiest tool for doing so. Many of the most zealous proponents of exclusion in the House of Commons – Thomas Pilkington, Thomas Papillon, John DuBois, and others – had backgrounds as non- or occasional conformists. Yet even many in strict conformity with the Church of England perceived a connection between their project and the comprehension (or at least toleration) of protestant dissent. To many Whigs, the disunity of protestants was the fissure which had enabled the growth of popery in England. Sir Thomas Clarges and Henry Powle lamented that acts intended for the suppression of popery had instead been deployed against fellow protestants.[42] Powle had chaired a committee for the ease of dissenters during the Cavalier Parliament, asserting that they "teach nothing but the truth."[43] In November 1680, Whigs in the Commons would draw up several bills to this affect, intended to declare "that the acts of Parliament made in the Reigns of Queen Elizabeth and King James, against Popish Recusants, shall not be extended against Protestant Dissenters."[44] Leading Whigs in the House of Lords expressed similar affinity for nonconformists. When the Earl of Shaftesbury had called for a new parliament in the 1670s, he had done so to "procure the dissenting protestants' ease, liberty, and protection."[45] Lord Russell likewise had "an inclination to favor the nonconformists, and wished the laws could have been made easier to them."[46] Arthur Capel, the Earl of Essex, similarly

[42] Grey, *Debates of the House of Commons*, VII: 76, 79 (4/4/1679).
[43] Basil Duke Henning, "POWLE, Henry (1630-92), of Williamstrip, Glos." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/powle-henry-1630-92.
[44] *CJ*, IX: 661 (11/24/1680).
[45] Cooper, *Two Seasonable Discourses*, 10.
[46] Gilbert Burnet, *Bishop Burnet's History of His Own Time: With the Suppressed Passages of the First Volume, and Notes by the Earls of Dartmouth and Hardwicke, and Speaker Onslow, Hitherto Unpublished. To which are added the cursory remarks of Swift, and other Observations* (Oxford: Clarendon Press, 1823), II: 81.

favored toleration and urged Charles to issue his Declaration of Indulgence to protestant dissenters.[47] Given this tolerant posture and their own zealous antipopery, nonconformists quickly formed a powerful constituency within the exclusionist coalition. In the lengthy interregnum between the dissolution of the first exclusion parliament in May 1679 and the sitting of the second in October 1680, Charles attempted to undermine the coalition by enforcing the laws against protestant dissenters.

Doing so required ensuring that dissenters were removed from positions of trust within the kingdom. In the counties, where all officers served directly under the crown, this process was relatively easy, and in 1679 Charles embarked on a review of the Justice of the Peace which ousted over 10% of the nation's JPs.[48] Corporations posed a much more difficult problem. By their royal charters, most of England's municipal corporations had sole power to elect their own officeholders, including the Sheriff and other magistrates responsible for enforcing laws within the borough. The enforcement of the laws against dissent was thus dependent on the hundreds of local officials governing England's 200 corporate boroughs. To gain control over his government, Charles would have to ensure that those boroughs were in the hands of loyal, well-affected men. Thankfully, a tool for placing corporate government in the right hands had been around for almost two decades – the Act for Regulating Corporations, which required that all corporate officeholders conform to the Church of England by taking the sacrament, take the oaths of Supremacy and Allegiance, renounce the solemn league and covenant, and pledge never to take up arms against the king or those appointed by him.[49] On March 12, 1679/80, the Privy

[47] Thomas Doyle, "Capel, Henry, Baron Capel of Tewkesbury (bap. 1638, d. 1696)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/4585
[48] Tim Harris, *Restoration: Charles II and his Kingdoms* (New York: Penguin, 2005), 193.
[49] "An Act for the Well Governing and Regulation of Corporations" (12/20/1661) *The Statutes of the Realm* (London: Dawsons of Pall Mall, 1963) V: 321-323.

Council proposed that a letter be circulated to all the municipal corporations of the kingdom to examine how they had observed the Corporation Act and to bring themselves into a strict compliance.[50]

The results were not encouraging. In some places, the problem seems to have simply been inattention to the laws. The corporation of Winchelsea confessed that "that none of us (mayor, jurats, and freemen) qualified in all particulars according to the said Act," but that this was solely due to "ignorance and neglect," the corporation not having possessed a copy of it.[51] Yet in other corporations local loyalists suspected "designs as well as neglect," and lax enforcement of the Corporation Act had produced much larger problems.[52] In Oxford, Humphrey Prideaux complained that the new mayor, Robert Pauling, who had been turned out by the Corporation Act in 1663, had once again been "put into [his] office… to serve the Presbyterians."[53] A resident of Bath sent Secretary Jenkins "the true character of the corporation men of Bath," reflecting that "the council must expect no otherwise then all *omnia bene* from the corporation when they give an account of themselves." Among the several "fanatiques" the resident singled out John Sherstone, "a damnable antimonarchical man, and a frequenter of conventicles."[54] Rye, learned Jenkins, was a place "wholly governed by those which are not at all capable by the act," yet the mayor refused to read the circular letter to the common council, having been "the greatest instrument for encouraging those [nonconformists] to appear to give their votes for electing

[50] TNA, PC 2/68, pp439-440; *Protestant Domestic Intelligence, or News from both City and Country*, #77 (3/30/1680). London had been reminded of its duty to observe the act several months earlier following its elections. TNA, SP 29/412, ff 114r-v (12/17/1679); TNA, SP 29/413, ff 3r-v (1/9/1679[/80]).
[51] "The Mayor and Corporation of Winchelsea to the King" (6/9/1680), "The Mayor and Corporation of Winchelsea to the King" (6/15/1680) TNA, SP 29/413, ff 255r-v, 292r.
[52] "Colonel John Strode to Leoline Jenkins" (5/15/1680) TNA, SP 29/413, ff 182r-183r.
[53] Edward Maunde Thompson, Ed., *Letters of Humphrey Prideaux*, *sometime Dean of Norwich, to John Ellis, sometime Undersecretary of State, 1674-1722* (Westminster: The Camden Society, 1875), 80.
[54] "A.R. to Leoline Jenkins" (4/5/1680) TNA, SP 29/413, ff 103r-v.

himself."[55] The corporation of Southampton was troubled because, although all the "present officers" had observed the Act, the burgesses "who are to succeed into the offices and have their voices in elections of parliament men… neither take the sacrament, nor will they take the oaths again… so that though the government be now in the hands of good men, it is in danger of falling into others' in a very short time."[56] In Tiverton, the "loyal party" warned of "the increase of conventicles, faction, and disorder," but lamented that they were powerless to repair it. "The redress is solely in his Majesty's power and prerogative."[57] The Corporation Act had placed responsibility for regulating corporations in the hands of the corporations themselves. For nearly 20 years, they had been allowed to elect their own magistrates, provided those magistrates observed the Act's three requirements. Yet in many corporations, nonconformists had gained such a powerful hold on the government that the Act had seemingly fallen into complete disuse. The Corporation Act could only serve as an effective tool for suppressing dissent in those boroughs where dissenters were already suppressed – it could not meaningfully change the composition of boroughs that were already rife with dissenters. The Corporation Act had completely failed. The case of London was especially galling. As 1680 drew to a close, Charles could only impotently order that "a letter in the usual manner and as in the former years" would be sent to the Lord Mayor of London, reminding him of his legal duty to observe the Act.[58] The mayor, a nonconformist, seems to have paid it little mind.[59]

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[55] "Robert Hall to Leoline Jenkins" (5/8/1680), "Thomas Crouch, Lewis Gillart, and Joseph Radford to Sir Leoline Jenkins" (6/24/1680), "Robert Hall to Leoline Jenkins" (6/25/1680) TNA, SP 29/413, ff 152r, 318r-v, 320r-v; "Francis Lightfoot to Leoline Jenkins" (7/3/1680) TNA, SP 29/414, ff 4r-5r.
[56] "John Speed to Jenkins" (5/15/1680) TNA, SP 29/413, ff 184v-185r.
[57] "Deputy Lieutenants of Devon to the Duke of Albermarle" (6/1/1680) TNA, SP 29/413, f 284r.
[58] "Order in Council re London" (12/17/1680) TNA, SP 29/414, f 306; "The King to Sir Patience Ward, Lord Mayor of London" (12/18/1680) TNA, SP 44/51, ff 376r-377r.
[59] Eveline Cruickshanks, "WARD, Sir Patience (1629-96), of Lawrence Pountney Hill, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/ward-sir-patience-1629-96.

These efforts to regulate corporations by purging dissenters enflamed the Whigs. Infighting, after all, only served to sap the strength of protestants, creating inroads for Jesuits. Besides, nonconformists were zealous in their pursuit of popery; removing them from positions of trust could only embolden the plotters. It was probably for this reason that Francis Winnington opined, during a speech supporting an association against a popish successor, that the "Act of Corporations is horribly abused; ill men taken in, and the best kept out." Better to have principled nonconformists in positions of magistracy, he suggested, than "corporations of the debauched sort… who have no sort of religion, but will warp with their interest."[60] At this moment of crisis, the foremost work of magistrates was to check the growth of arbitrary government and uproot popery. The Corporation Act, even in its relatively tepid enforcement in 1680, had become an obstacle to that project and would have to be repealed.

On December 24, John Colt, the "head of" the "fanatic party in Leominster," moved to bring in a bill "to repeal the clause in the act for regulating corporations which imposes the renouncing the covenant."[61] Sir Thomas Player responded by moving that the clause requiring corporate officeholders "not to take up arms against the king or any commissionated [*sic*] by him" be likewise repealed, presumably on the grounds that "a popish successor may send popish guards" and Player would not forswear "tak[ing] up arms to defend myself against such rogues."[62] In response Sir Thomas Lee, a man who had helped enforce the Corporation Act in the 1660s,

[60] Grey, *Debates of the House of Commons*, VIII: 164 (12/15/1680). The same observation had been made by Shaftesbury in 1675. *A Letter from a Person of Quality to his Friend in the Country* (London: 1675), 2.
[61] "Richard Hopton to the Duke of Beaufort" (12/13/1682) TNA, SP 29/421/1, f 113r; "Diary of a Parliament" (12/24/1680) *Historical Manuscripts Commission, Twelfth Report, Appendix, Part IX: The Manuscripts of the Duke of Beaufort, K.G., The Earl of Donoughmore, and Others* (London: Her Majesty's Stationery Office, 1891), 104. Unless otherwise cited, the motions concerning the repeal of the Corporation Act in this paragraph are drawn from "Diary of a Parliament."
[62] No explanation for Player's motion was recorded, but it comports with a similar motion he made the previous year concerning the Militia Act. Grey, *Debates of the House of Commons*, VII: 151-2 (4/27/1679).

moved that it should be repealed in its entirety.[63] A chorus of Whigs seconded the motion, urging the repeal of the Act which served only as a barrier to the effective prevention of popery and arbitrary government. An order to bring in a bill for its appeal was accordingly voted, and a committee composed entirely of exclusionist Whigs – Colt and Lee, alongside Sir Trevor Williams, Sir William Jones, Sir Richard Cust, and Sir Robert Carr – was charged with drafting it.[64] After the bill received its second reading on January 6, 1680/1, several others were added, including Winnington.[65] The draft preamble of the bill echoes Winnington's argument from earlier in the parliament. According to the Committee, the Corporation Act "hath proved manifestly inconvenient and destructive of the good government of corporations within this kingdom… disabling and incapacitating persons of sufficiency and ability… and letting into such offices and places the insufficient and unfit" leading to "ill government and maladministration of justice."[66] According to the Whigs, the security and good government of the kingdom required the repeal of the Act for Regulating Corporations.

The picture looked very different from Whitehall. When Secretary of State Leoline Jenkins learned of parliament's attempt to repeal the Act, he was despondent. The restrictions on officeholders imposed by the Act were, he said, "corner-stones" of the government "which I hope I shall not see removed in my days."[67] In truth, 1680 had proved how moribund the Corporation Act had become. Its reliance on municipalities to police themselves had proved ineffective. Not only were many corporations rife with nonconformists, but attempts at

[63] M.W. Helms and Leonard Naylor, "LEE, Thomas I (1635-91), of Hartwell, nr. Aylesbury, Bucks." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/lee-thomas-i-1635-91.
[64] *CJ*, IX: 692 (12/24/1680).
[65] *CJ*, IX: 696 (1/3/1680[/1]), 700-1 (1/6/1680[/1]).
[66] "Draft Preamble to a Bill for Repealing the Corporation Act" (ca. Jan 1680[/1]) National Library of Wales, Canon Trefor Owen MSS, #147.
[67] "Leoline Jenkins to Henry Sidney" (12/28/1680) BL, Add MS 32,681, f 127r.

enforcement produced only occasional conformity and did little to meaningfully change the composition of municipal leadership, particularly in those boroughs where dissenters and sympathizers were most entrenched. The Act was thus least effective in the places where it was most needed. Yet more fundamentally, the Act was a parliamentary statute, one which parliament could repeal. The effort to repeal the Act had revealed the extent to which the struggle over corporations was part of Charles's broader struggle with parliament for control of the kingdom. The corporate policy of the 1660s, with its reliance on parliament and the boroughs, was completely unworkable during the crisis years, when Charles found both institutions arrayed against him. On January 10, 1680/1, vexed by the attempt to repeal the Corporation Act and another exclusion bill, Charles prorogued parliament; he dissolved it eight days later. The short-lived Oxford Parliament in March did nothing to assuage Whig anxieties surrounding the plot or the growth of "French government." With its dissolution, the arena of conflict shifted decisively to the municipalities, where Whigs set about enacting their vision of good government using local privileges. It was this attempt to wage national politics through corporate institutions that would directly inspire the government to formulate a new policy for corporate regulation.

(Ab)using Corporate Power

The chief institutional mechanism through which corporations could interfere with national political priorities was through their control of the local administration of justice. Municipal corporations typically elected their own sheriffs, the official charged with serving royal writs and empaneling juries, as well as their own justices of the peace, officers charged with enforcing the king's laws. Control over these offices gave corporations the power to shape the enforcement of the laws in England's municipalities. From Whitehall's perspective, the most

frequent abuse of corporate autonomy was the indulgence given to Protestant dissenters. The Privy Council and Secretary Jenkins received numerous reports of conventicles tolerated in municipalities across England. On April 13, upon information that "one Reuly, a person heretofore expelled out of" Berwick-upon-Tweed "doth at this time hold frequent and numerous unlawful meetings… to the endangering of his Majesty's peace, and the manifest contempt of the laws of the kingdom," Jenkin sent an order to the town to put the laws in force.[68] In Plymouth a conventicle was "publicly held… where the dissenters from the Church meet at the very times of divine service."[69] The governors of many of England's close-knit municipal communities refused to antagonize the nonconformists in their midst. In Windsor, a local informant noted that new conventicles were being built in December 1681, but that "our magistrates… are such as live by their trades, and will not lose a customer to execute a law."[70] In other places, dissenters occupied positions in the magistracy. According to one anonymous report, the town of Walsall was "very factious," having "built a meeting house for the nonconformists where they have constantly kept conventicles, never disturbed by any of their mayors but frequented by most of their magistrates."[71] At the sessions in London, several constables (local police officials appointed by the elected sheriffs) reported that "there was no conventicle, or unlawful meetings held in their constablewicks." Sir George Jeffreys, chairman of the sessions, knew this to be true, an asked one of them "what religion he was of? And when he received the sacrament." The constable responded that "he was 31 years of age, but that he never received the sacrament in all his life."[72]

[68] "Order in Council concerning Berwick" (4/13/1681) TNA, SP 29/415, f 45r.
[69] "Jenkins to [Daniel Barker] Mayor of Plymouth" (11/17/1681) TNA, SP 44/62, pp 354-5.
[70] "John Barrow [Windsor] to Dr. Turner, Chaplain to the Bishop of London" (12/15/1681) TNA, SP 29/417, f 572r
[71] "Statement on Walsall" (Nov 1681) TNA, SP 29/417, f 195r.
[72] Nathaniel Thompson, *Loyal Protestant and True Domestic Intelligence* #103 (1/14/1681[/2]).

As had been the case for much of the reign, dissenters and sympathetic conformists declined to enforce the laws against nonconformity.

The more alarming development in 1681 and 1682 concerned the uses of grand juries. These bodies were empaneled by the elected sheriffs, and in 1681 this power became the focus of public controversy as Whiggish sheriffs began to empanel clearly partisan juries. Nowhere was this problem more obvious than in London, where sheriffs began to clash with the government over jury membership. In July 1681 Attorney General Robert Sawyer asked the judges presiding over the sessions at the Old Bailey, the central criminal court of London, to permit a new jury to be empaneled by "the second of the compter." The reason, Sawyer alleged, was that "he was informed the Grand Jury now empaneled were not so fitly qualified… for that they, or some of them, were obnoxious to the laws, as dissenter[s] from the Church of England." To this the Sheriff who had empaneled the jury, Slingsby Bethel, answered that "if none that were in any kind violators of the laws might be returned, then they must take no swearers, debauchers, or drinkers of claret… so that it would be a matter of extreme difficulty for the sheriffs to return any fit juries."[73] The scene played out again in October, when two previously-indicted "fanatics… which frequented conventicles and went not to church" were discovered to have been placed on the Grand Jury empaneled by one of the new sheriffs, Thomas Pilkington. When Lord Chief Justice Francis Pemberton of the King's Bench noted the absurdity of placing nonconformists on a jury responsible for enforcing the laws against nonconformity, Pilkington defended his selection by answering that "they were very worthy men, and… very good protestants," adding that, if frequenting conventicles "was made a qualification," then "no drunkard or whoremaster

[73] *Impartial Protestant Mercury* #22 (7/5-8/1681).

could be of a jury," and "there could not a Grand Jury be found in London."[74] Unsurprisingly, juries frequently refused to indict nonconformists, finding that there was insufficient evidence to go to trial – a verdict of *ignoramus*.[75]

Partisan grand juries did more than protect dissenters from prosecution. As the government began to crack down on sedition, *ignoramus* juries provided a means to protect Whig publishers and libelers. A man named Timothy Westell was brought before the Grand Jury of Reading on information that he had claimed 10,000 men were in the pay of the Duke of York against the king, but the jury "would not by no means find the bill against him but found it ignoramus." The court was shocked by this verdict, but the author of this "account of our Reading plot" seemed resigned, adding "I need not tell your lordship how our corporation stand qualified."[76] Publishers likewise received protection from the *ignoramus* juries. In February 1680/1, the printer Francis Smith had accused of seditious libel, supposedly because he had contrived to bring the king "into hatred and infamy amongst his subjects." The Grand Jury refused to indict, finding that Smith lacked any "ill intention."[77] *Ignoramus* juries thus protected dissenters as well as more overt political enemies of the regime.

While dissenters and publishers might have been the Whig allies to benefit most frequently from *ignoramus* juries, it was a handful of indictments for treason in London in the latter half of 1681 that proved the most shocking abuses of corporate jurisdictional autonomy.

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[74] "Earl of Longford to Ormonde" (10/18/1681) *Calendar of the Manuscripts of the Marquess of Ormonde, K.P., Preserved at Kilkenny Castle, New Series* (London: His Majesty's Stationery Office, 1911), VI: 197-8. Hence *HMC Ormonde, NS*. In both cases, the offending jurors were removed and the sheriffs appointed their replacements.
[75] "Newsletter from London" (1/13/1681[/2]) *Historical Manuscripts Commission, Tenth Report, Appendix, Part IV: The Manuscripts of the Earl of Westmorland, Captain Stewart, Lord Stafford, Lord Muncaster, and others* (London: Printed by Eyre and Spottiswoode, 1885), 175; Pickavance, "The English Boroughs and the King's Government," 110-111.
[76] "Thomas Coates [Reading] to the Bishop of St. Asaph" (1/18/1680[/1]) TNA, SP 29/415, f 17r.
[77] *Smith's Protestant Intelligence Domestick and Foreign* #1 (2/1/1680[/1]); Burnet, *History of My Own Time*, II: 280-281; Narcissus Luttrell, *A Brief Historical Relation of State Affairs* (Oxford: Oxford University Press, 1857), I: 64.

The first of these concerned the "protestant joiner," Stephen Colledge, who had supposedly endeavored "to raise a rebellion among his Majesty's subjects, and to subvert the government."[78] Witnesses alleged that Colledge had ridden to Oxford during the last parliament, where he and several coconspirators had equipped themselves with armor, guns, blunderbusses, and 1500 barrels of powder. Their objective was "to seize his Majesty's person… if he would not consent to what the Parliament should offer… and [to] keep him under force till he should comply or otherwise bring him to the block like his father."[79] They likewise claimed that Colledge had shown them a handful of seditious libels he had written, and made ill reflections on Lord Chief Justice Pemberton and the Duke of Monmouth. Yet after four hours of deliberation, the jury returned an *ignoramus* verdict, whereupon a shout went up in the hall. Attorney General Robert Sawyer was stunned – "the jury," he wrote to Secretary Jenkins, "brought in an *ignoramus* against fullest evidence and direction of the Court."[80] Lieutenant Colonel Peter Rich, a Tory in the City, saw the writing on the wall. The Whig "sheriffs," he advised Jenkins, "would return such juries as they were sure… would not find any bill… against any of the prisoners."[81] He was shortly proved right. In October, a dissenter named John Rouse was accused of having "compassed and imagined the death of the king, and to have endeavored to raise a rebellions, and depose his majesty."[82] Rouse was alleged to have made seditious utterances, to the effect that "the king was a papist and had forfeited his crown by breaking his coronation oath and

[78] *True Protestant Mercury, or Occurrences Foreign and Domestick* #53 (7/6-9/1681).
[79] *Impartial Protestant Mercury, or Occurrences Foreign and Domestick* #23 (7/8-12/1681); *The True Narrative of the Proceedings at the Sessions-House in the Old Bayly which began on Wednesday the 6th of this Instant July 1681, and Ended on Friday the 8th Following* (London: D. Mallet, 1681), 3.
[80] "Robert Sawyer to Leoline Jenkins" (7/9/1681) TNA, SP 29/416, f 86r.
[81] "Lt. Colonel Peter Rich to Sir Leoline Jenkins" (10/11/1681) TNA, SP 29/417, f 86r.
[82] *A Particular Account of the Proceedings at the Old Bayly, the 17 and 18 of this Instant October with relation to the Earl of Shaftesbury and others, Prisoners in the Tower: and Mr. Rouse, who was Indicted of High Treason, &c* (London: Thomas Newcomb, 1681), 1-2.

persecuting the people."[83] When the Grand Jury found insufficient evidence to go to trial, the court was "surprised thereat" and asked "how they could upon so full an evidence, return an *ignoramus*" to which the foreman merely answered "they had satisfied their own consciences."[84] Enemies of the king were hiding behind the powers and autonomy granted to corporations to stand out in their sedition.

The greatest incidence of this came the following month, when the Earl of Shaftesbury was arraigned on treason charges before the Middlesex Grand Jury. A warrant had gone out for Shaftesbury's arrest on July 2, and a search of his papers by Francis Gwyn, clerk of the Privy Council, supposedly turned up an "Association" modeled on the 1584 association in defense of Elizabeth I.[85] The Association began by recounting the danger that the English nation was under from "a most pernicious and hellish plot, to root out the True Protestant Religion as a pestilent heresy, to take away the life of our Gracious king, to subvert our laws and liberties, and to set up arbitrary power and popery." The Association claimed that the plotters had received "countenance and protection" from the Duke of York, including through the Duke's intrigues to dissolve any parliaments "in hot pursuit of the popish conspiracies." Recognizing the danger to England by the prospect of a popish successor, the Association enjoined "all protestants" to form "a union" of "mutual defense and assistance," in particular pledging "never [to] consent" to the succession of the Duke of York, but to employ "by all lawful means and by force of arms… to subdue, expel, and destroy" him should he attempt to succeed.[86] It is difficult at this point to establish whether the Association was fraudulent or not – certainly some of the witnesses seem

[83] Newdigate Newsletter (10/18/1681) FSL, LC 1138.
[84] *Particular Account*, 1-2.
[85] "Warrant to Francis Gwyn" (7/1/1681), "Warrant to Thomas Cheeke" (7/2/1681) TNA, SP 44/54, 81.
[86] *The History of the Association, containing… a True Copy of the Association, produced at the Earl of Shaftesbury's Trial, and said to be Found in his Lordship's Study* (London: Richard Janeway, 1682), 19-21.

less than trustworthy, but the proposal echoed similar projects pitched by radical Whigs throughout the Exclusion Crisis. In any event, Shaftesbury was imprisoned in the Tower of London, awaiting a presentment before a grand jury.

Although the dissolution of Parliament had disrupted the Whig agenda, the Earl of Shaftesbury remained a darling of nonconformists and Whigs for his efforts on behalf of exclusion during the crisis. When Shaftesbury was presented before the Middlesex Grand Jury on November 24, he thus had little to fear.[87] The two sheriffs, Thomas Pilkington and Samuel Shute, were zealous Whigs, and they had been careful to select members who would decline to bring the case to trial. Among the jury's 21 members were five Whig MPs, each of whom had strong ties to dissenting interests throughout the nation.[88] There were Thomas Papillon and John DuBois, both of whom attended the French Church on Threadneedle street would serve as Whig candidates for sheriff in 1682.[89] The Evesham MP Edward Rudge came from a dissenting family and had run afoul of the government in the mid-1670s, while John Hall, MP for Wells, was a friend of West Country dissent, and a probable member of the Green Ribbon Club.[90] The foreman was the Suffolk MP, presbyterian, and East India Merchant Sir Samuel Barnardiston.[91]

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[87] Shaftesbury was eligible to be indicted before a Middlesex grand jury on account of his being free of the Skinner's Company of London. Newdigate Newsletter (12/13/1681) FSL, LC 1160.
[88] *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors, from the Earliest Period to the Present Time* (London: T.C. Hansard, 1810), VIII: 759. Hence *ST*.
[89] Basil Duke Henning, "PAPILLON, Thomas (1623-1702), of Fenchurch Street, London and Acrise Place, Kent" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/papillon-thomas-1623-1702; Irene Cassidy and Eveline Cruickshanks, "DUBOIS, John (1622-84), of Love Lane, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/dubois-john-1622-84.
[90] Edward Rowlands, "RUDGE, Edward (1630-96), of St. Mary Axe, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/rudge-edward-1630-96; Irene Cassidy, "HALL, John (1632-1711), of Wells, Som. and The Hall, Bradford-on-Avon, Wilts." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/hall-john-1632-1711.
[91] Paula Watson, "BARNARDISTON, Sir Samuel, 1st Bt. (1620-1707), of Brightwell, Suff. and Bloomsbury Square, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/barnardiston-sir-samuel-1620-1707.

The indictment hearing was a fracas. The room was densely packed with spectators, "a great many persons of quality as well as the common sort" of "rabble," who "shouted and hooted and threw dirt at" the King's witnesses.[92] One newsletter writer reported how "the witnesses were in danger of being torn in pieces, and the sheriff with his officers could scarce hinder it."[93] In fact, Pilkington and Shute appear to have encouraged the crowds. Outside the Old Bailey, Shute greeted the assembled rabble with cries of "Shout, boys… shout!"[94] Pilkington similarly egged on the crowd, and later both sheriffs treated Shaftesbury to a feast at Skinners' Hall.[95] Unsurprisingly, Shaftesbury's jury, like Colledge's, returned an *ignoramus* verdict.

Shaftesbury's deliverance from allegations of treason led to riotous celebrations from the City's Whigs. Bonfires lit up the streets, and crowds marched throughout the night, shouting "No Popish Successor!" and "God Bless the Earl of Shaftesbury!"[96] Whigs penned poems to the Earl, celebrating his release from the Tower.[97] A medallion, possibly produced by Shaftesbury himself, was minted to commemorate his release, featuring the date of the arraignment and an image of the sun breaking over the Thames with the inscription "LAETAMUR" – Rejoice![98] The Tory propagandist Roger L'Estrange reported how Captain Griffin of the watch attempted to snuff out an unlicensed bonfire, whereupon he was set upon by a crowd of boys shouting "a Tory, a Tory, kill him!"[99] The rioters stopped coaches, "demanding money to drink my Lord Shaftesbury's

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[92] Newdigate Newsletter (11/24/1681) FSL, L.C.1152; *ST*, VIII: 805-811, 821.
[93] "Newsletter from London" (11/24/1681), (12/8/1681), (12/15/1681) *Historical Manuscripts Commission, Tenth Report, Appendix, Part IV*: 174.
[94] Roger L'Estrange, "Narrative of What Happened in the City the Night Before" (11/25/1681) TNA SP 29/417, f 255r.
[95] "Earl of Longford to Ormond" (11/26/1681) and "Earl of Longford to Ormond" (12/13/1681) *HMC Ormonde NS*, VI: 256-7, 257-8; "? To Secretary Jenkins" (4/2/1682) TNA, SP 29/418, f 101r.
[96] Tim Harris, "Cooper, Anthony Ashley, first earl of Shaftesbury (1621-1683)" in *Oxford Dictionary of National Biography*, December 9, 2021, https://doi.org/10.1093/ref:odnb/6208.
[97] "A Poem to the Right Honorable Anthony, Earle of Shaftesbury, Upon his Enlargement out of the Tower" (1681) TNA, PRO 30/24/43/68.
[98] "Shaftesbury Medallion" (1681) TNA, PRO 30/24/43/66.
[99] Roger L'Estrange, "Narrative of What Happened in the City the Night Before" (11/25/1681) TNA, SP 29/417, f 255r-256v.

health, and where they were refused it the coachmen and footmen were lustily mauled."[100] Similar riotous celebrations appear to have unfolded in other places throughout the kingdom.[101]

The royal assault on the City of London, and with it the project to reform England's corporate municipalities, began by the light of the bonfires. "The insolence and riot was so great," wrote Sir Leoline Jenkins on November 26, "and the bonfires were so many… that his Majesty is resolved to fall upon the City Charter for this misgovernment… and to try how far a *Quo Warranto* will work upon their charter."[102] The stakes could not have been higher. "Tis now come to a civil war" wrote one of Jenkins's correspondents in the City, "not with the sword, but law. And if the king cannot make the judges speak for him, he will be beaten out of the field."[103] If Charles was to remain King of England, he would need to wrest control of the courts away from factious Whigs.

Charles ordered Attorney General Robert Sawyer to confer with the other counselors learned in law to "take into consideration the abuses of the franchises of the City of London."[104] The foremost of these counselors, and the one who would go on to do the most to define the corporate policy of the Tory Reaction, was Sir Francis North, Chief Justice of the Court of Common Pleas. North had enjoyed a meteoric career as a crown lawyer in the decades since the Restoration. A protégé of Attorney General Sir Geoffrey Palmer in the early 1660s, North was appointed king's counsel in 1668 following his successful prosecution of the bawdy-house rioters. In 1671 he was knighted and appointed Solicitor General. In the 1670s, thanks largely to the patronage of the Earl of Danby, he advanced rapidly, becoming Attorney General in 1673,

[100] "Earl of Longford to Ormond" (11/26/1681) *HMC Ormonde NS*, VI: 237.
[101] "Secretary Jenkins to the Mayor of Reading" (12/15/1681) TNA, SP 44/62, pp370-1.
[102] "Sir Leoline Jenkins to Ormond" (11/26/1681), "Earl of Longford to Ormond" (11/29/1681) *HMC Ormonde NS*, VI: 238, 242.
[103] "Private Advice to Jenkins about Brown, Clerk of the Cooper's Company" (Nov 1681) TNA, SP 29/417, f 407r.
[104] "London City – Mr. Attorney General to give his Opinion about the Franchises thereof" (11/25/1681) TNA, PC 2/69, p 410.

Chief Justice of Common Pleas in 1675, and Privy Councilor in 1679.[105] A self-professed "prerogative man," North believed "the safety of the national religion and property" depended "on the people's dutiful and legal obedience to the crown."[106] As the presiding judge at Shaftesbury's arraignment, North had urged the case to go to trial, concerned that the "Association" "tended to treason." In the Old Bailey, he had witnessed firsthand how corporate autonomy could thwart royal justice and threaten the security of the realm.[107]

North and Sawyer drew up a list of six "Queries" concerning the abuses of London's privileges to establish grounds for a *Quo Warranto*. Half of the queries concerned the election and behavior of the sheriffs, reflecting their central position in the crown's anxieties.[108] Yet the resulting "Heads of a Quo Warranto against the City of London" encompassed a broader scope. The misuse of the shrieval power still took center stage, but so too did the "imposing and extracting great sums of money of all inhabitants within the city" and the London Common Council's presuming to "treat, debate, and determine of the king's prerogative, and of the great and difficult affairs of the kingdom," a reference to a petition the Common Council had submitted to the king in January 1681 calling for the sitting of parliament.[109] These latter two would ultimately form the core offenses justifying the seizure of the City's charter in the

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[105] Paul D. Halliday, "North, Francis, first Baron Guilford (1637-1685)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/20301; "Danby to Lord Chancellor Heneage Finch" (4/4/1676) in Browning, *Thomas Osborne,* II: 45.

[106] Roger North, *The Lives of the Right Hon. Francis North, Baron Guilford; the Hon. Sir Dudley North; and the Hon. And Rev. Dr. John North, together with the Autobiography of the Author*, Augustus Jessopp, ed. (London: George Bell and Sons, 1890), I: 164, 316. See also the dedication to North in William Sherlock, *The Case of Resistance of the Supreme Powers Stated and Resolved, according to the Doctrine of the Holy Scriptures* (London: Fincham Gardiner, 1684).

[107] *ST*, VIII: 820-1; Newdigate Newsletter (11/24/1681) FSL, L.C.1152.

[108] "Queries to Prevent the Great Mischiefs from the Misuse of the Privileges that the Mayor and Corporation of London Pretend to" (Nov 1681) TNA, SP 29/417, f 518r-519r.

[109] "A Quo Warranto against the City for using these Franchises" (Dec 1681) TNA, SP 29/417, f 524r; *The Humble Petition of the Right Honorable the Lord Mayor, Aldermen, and Commons of the City of London… to the King's Most Excellent Majesty, for the sitting of this Present Parliament* (London: Samuel Roycroft, Printer to the City, 1681).

ensuring legal battle, but the prominence of sheriffs in these early materials makes clear that the government's main anxiety was jurisdictional. Less than a month after Charles had ordered an investigation into the privileges of the City, a *Quo Warranto* issued out to inquire "by what warrant" the City of London claimed to be a corporation, and how they had used their franchises. The information was delivered to Sheriff Thomas Pilkington on December 21, who received it with "such words as were not very handsome."[110]

By the end of the year, North seems to have begun sketching out two possibilities for London's fate. One, a memo of "Proposals touching the charter of London," outlined a list of changes which should be made to the City's charter when it surrendered its liberties to the crown. First among these was that henceforth the King ought to possess "the approbation of the Lord Mayor, Recorder, and Common Sergeant." Giving the king authority over the foremost corporate officials went hand in hand with the second proposal, that "the mayor, or at least the mayor and aldermen" should "have a negative upon all elections or public acts of the corporation." Taken together, these proposals ensured that all public acts or elections in the corporation would be under the oversight of royally sanctioned officials. North further proposed that "Sheriffs and Justices of the Peace" should serve "by the king's commission, as in other counties," and that the King and Lord Chancellor should have power to appoint additional JPs among the leading corporate officeholders. North's proposals would have seriously curtailed London's corporate autonomy, particularly concerning the local administration of justice.[111] On the other hand, in case London should fight the king in court and lose its charter, North began cataloging those

[110] "Newsletter to John Squier" (12/29/1681) in F.H. Blackburne Daniell, Ed., *Calendar of State Papers, Domestic Series. September 1st, 1680 to December 31st, 1681. Preserved in the Public Record Office* (London: His Majesty's Stationery Office, 1921), 651; Newdigate Newsletter (12/22/1681) FSL, LC 1164; Luttrell, *A Brief Historical Relation of State Affairs,* I: 153. The information itself is in *ST*, VIII: 1039-1042.
[111] "Proposals touching the Charter of London" (Dec? 1681) TNA, SP 29/417, f 522r; "The Project for the Restoration of the Charter of London" BL, Add MS 32,519, ff 126r-v.

rights which the City could claim by prescription, the better to understand "what remains" "supposing the charter be taken away."[112] In December 1681, either option seemed possible. The Tory Reaction against English municipalities had begun.

From London to England: Defining a Corporate Policy

Even as Pilkington was receiving the *Quo Warranto* against London, North had begun to turn his mind to more national concerns. As early as December 1681, he began to sketch out some "Reflections upon Corporations upon Occasion of the Quo Warranto against the City of London." In this collection of notes, North began sketching out his ideas about the place of corporations within the English state. Corporations, he wrote, were "artificial creatures, erected for better order and government… in their nature like offices and officers" under the king "for making a better government than the law had provided."[113] These scattered thoughts matured over the next several months. Corporate power, North began, was at its core royal power. Corporations governed themselves by "civil power (or what we usual[ly] call a charter from the prince)… hence it [was] by the regal power [that] all cities and corporations govern their societies."[114] As tools of royal power, corporations were "but parts of the king's ordinary

[112] "State of the Privileges of London" BL, Add MS 32,518, f 185. Privileges held as of the 51st year of the reign of Edward III were recognized to be held by prescription – taking away the charter would not necessarily void these privileges.
[113] "Reflections Upon Occasion of the Quo Warranto against the City of London" (Dec 1681?) BL, Add MS 32,519, f 122v. Roger North, who transcribed these volumes while preparing his *Lives of the Norths*, writes that this paper was prepared "after the seizure" of the London charter. Yet the "Project for the Restitution of the Charter of London," which forms a part of the "Reflections," appears in the state papers for 1681. "Proposals touching the Charter of London" (Dec? 1681) TNA, SP 29/417, f 522r.
[114] "Papers of Lord Keeper Guilford as a Justice of Assize, Chief Justice of the Common Please, and Lord Chancellor" Bodleian, MS North b. 8, f 397r.

government, detached and entrusted to particular persons," for his "ease, and the people's convenience."[115]

It seemed to North that the latter clause had occasioned much confusion. Corporations were not "erected for the sake of the persons" who possessed the charter or franchise, but for "the public interested in the administration."[116] The jurisdictional autonomy that corporations possessed was "granted out of the crown" for "order and government."[117] Yet these grants were given "upon this trust that there be justice done, and that the people receive no prejudice thereby."[118] When corporate officeholders used their franchise "to the public prejudice, against the end of their institution" then their privileges were forfeit.[119] "Nothing is more right and positive in all the old and modern law," North wrote, "than that corporations for abusre are obnoxious to have their franchise seized."[120] This was true "without respect to the value of the offense," he added. "When the public is once hurt, the law will not stay to have another fault repeated."[121] Corporations, North concluded, were "answerable unto" the king "for all mismanagement," by writ in Westminster Hall "where the judges determine whether they have used their power suitable to the king's charter and unto public weal."[122] It went without saying that the monarch was the ultimate arbiter of that "public weal." In the words of Secretary Jenkins, "the public good and… the service of the crown" were "all one."[123]

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[115] "An Account of Franchises, and More Particularly such as are Enjoyed by Spiritual Persons" BL, Add MS 32,520, f 67r.
[116] "An Account of Franchises, and More Particularly such as are Enjoyed by Spiritual Persons" BL, Add MS 32,520, f 67r.
[117] "A View of the Several Judicatures in England," "Of Franchises" BL, Add MS 32,518, ff 156r, 182r.
[118] "A View of the Several Judicatures in England" BL, Add MS 32,518, f 156r.
[119] "An Account of Franchises, and More Particularly such as are Enjoyed by Spiritual Persons" BL, Add MS 32,520, f 67r.
[120] "Of the Prerogative" BL, Add MS 32,520, f 32v.
[121] "Of Franchises" BL Add MS 32,518, f 182r-v; "Of the Prerogative" BL, Add MS 32,520, f 32v.
[122] "Papers of Lord Keeper Guilford as a Justice of Assize, Chief Justice of the Common Please, and Lord Chancellor" Bodleian, MS North b. 8, f 397r.
[123] "Leoline Jenkins to Earl of Yarmouth," (9/16/1682) TNA, SP 44/68, pp 125r-126r; "Leoline Jenkins to Earl of Yarmouth," (9/16/1682) BL, Add MS 27,448, f 125r.

This was how corporate power was meant to work. Yet in practice, North thought, corporate power had deviated from this ideal in two crucial ways. The first was structural. Many corporations, North wrote, were "counties of themselves," meaning they possessed "Mayor, Sheriffs, Aldermen, and Justices of the Peace" and were exempted "from the jurisdiction of the justices of the peace of the county." The proliferation of these "peculiar jurisdictions and exemptions" from the King's temporal government was "very inconvenient," because it made enforcement of the laws, particularly in smaller towns and boroughs, almost impossible. "There is in small corporations," North wrote, "so perfect knowledge and acquaintance that it is hard to have justice against them in any criminal case, especially in capital cases where they are allowed peremptory challenges."[124] This was most especially the case where corporations possessed power to elect their own sheriffs, who "though they are chosen by the corporation" out to remain "the king's officers, and not the officers of the corporation."[125]

The king had created hundreds of subordinate jurisdictions, bodies politic through which he shared the government of England with "particular persons." Yet these bodies politic had been corrupted over the preceding decade by the growth of "factious" parties. North held it as an axiom of statecraft that "wherever there are many in government that are not tied together by the same interest, there will be sedition to work a change."[126] Since the Restoration, men of very different interests from the monarch had entered into the government. "From the first resettlement" of monarchy and episcopacy, "the republican party were restless… and the Presbyterians and sectaries."[127] The outright rebellions in the 1660s had proved inadequate to the

[124] "Popish Inventions How Troublesome," "Of Corporations" (May 1682?) BL, Add MS 32,518, ff 8r, 183r-184v; "Observations Concerning Charters to Corporations" (May? 1682) TNA, SP 44/66, pp 88-90.
[125] "Memorandum on Municipal Corporations," "About the Election of Sheriffs of London" BL, Add MS 32,518, ff 156r, 187r, 188v.
[126] "Material for an Essay of Sedition" BL, Add MS 32,518, f 59r.
[127] "Instructions for a Treatise to be Wrote for Undeceiving the People, about the Late Popish Plot" BL, Add MS 32,518, f 144v.

purpose. In the 1670s, the "factious" had begun "to represent all actions of the government as odious as they could be, and to persuade the common people that they… tended to France and popery." The climax of this was the "Popish Plot," an "engine" "cherished by all that desired change in the government of church and state" intended to bring "the republican party," and "the Presbyterians and all sectaries at home… into power." The "Green Ribbon Club" kept up the plot by "false and scandalous news and dispersed it… to the most active of their party in the several counties."[128] By 1681, when Shaftesbury was accused of treason, "sedition was grown to that height, as to be almost ready to break out into force." The most egregious consequence of this, the one which most troubled North, was the administration of justice. Judges were terrified, shouted and hissed at until they were "persuaded not only of the sense of the people but of their violent desires, whereby they might imagine danger to themselves if they should appear to check the stream." Juries, too, had been corrupted by the growth of the faction. "The prevalency of the party" in London had enabled them "to appoint sheriffs, [by] which they would be sure to have men the most averse to the government, and would take care that juries should be entirely of their own party."[129] Nor was London unique - the efforts to enforce the Corporation Act in 1680 had revealed the extent to which the faction had infected boroughs throughout the nation. Where sectaries and republicans had a share in the government, justice succumbed to the interests of faction.

Rectifying this situation required removing disloyal men from positions of trust. With the failure of the Corporation Act, new measures were necessary to accomplish the task. In a series of proposals which he distributed in Whitehall, North outlined a project for the general reform of

[128] "Instructions for a Treatise to be Wrote for Undeceiving the People, about the Late Popish Plot" BL, Add MS 32,518, ff 144r-v, 146v.
[129] "History of Faction" BL, Add MS 32,519, ff 13v, 20r, 21r.

municipal charters. His suggestions precisely mirrored the measures he had contemplated for the "Restoration of the Charter of London," further underscoring the extent to which he considered the problems to be the same across England's boroughs.[130] The king should have power "within one month after election… to disapprove the election of any mayor or sheriffs, who are more immediately the king's officers," as well as "the approbation of the recorder and town clerk." The monarch should likewise have power to appoint justices of the peace with jurisdiction in the towns. As in London, North suggested that lesser corporate officials – "aldermen, common council, bailiff, sergeant of mace, swordbearer," and others "may be displaced by the court of aldermen."[131] These changes would rectify the issues that made corporations that were "counties of themselves" so "inconvenient." Their effectiveness came from their reliance on corporate charters as the instrument of regulation. Unlike the Corporation Act, North's proposals could not be repealed by hostile parliaments. Nor did they rely on corporate officeholders themselves for enforcement – as clauses in royal charters, these provisions could be enforced in the king's courts. Taken together, North's proposals constituted the most comprehensive, systematic, and immediate extension of royal authority over municipal corporations since the development of England's "corporate system" under the Tudors.[132]

North's proposals involved changing the text of England's municipal charters to introduce these new clauses reserving royal power over the magistracy within the boroughs. Revising the charters necessitated taking hold of the old ones – either by the corporation's voluntary surrender, or by the seizure of the charters in royal courts. Appended to North's

[130] "The Project for the Restoration of the Charter of London" BL, Add MS 32,519, ff 126r-v; "Proposals touching the Charter of London" (Dec? 1681) TNA, SP 29/417, f 522r.
[131] "Of Corporations" (May? 1682) BL, Add MS 32,518, ff 183r-184v. Jenkins copied these down in his warrant book, in which he also recorded his instructions to AG Robert Sawyer for drawing up new charters. "Observations Concerning Charters to Corporations" (May 1682) TNA, SP 44/66, pp 88-90.
[132] The phrase is Phil Withington's. *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge: Cambridge University Press, 2005), 16-48.

proposals for reform were a series of suggestions for how corporations could be induced to surrender. First, it should be made clear to freemen that while they should "not be restored to any of those privileges that are inconvenient," there would otherwise "be no diminution in any… particulars." The efforts to revise corporate privileges would be tightly circumscribed to make it more acceptable. Second, key obstacles to surrender should be removed or lessened. Concerns about the fate of corporate lands in case of surrender was one important obstacle – if the corporation were dissolved or otherwise ceased to exist, the possessions might revert to the previous owners. To soothe this anxiety, North recommended that corporations should "surrender and grant to the king all their lands and goods and chattels" prior to surrendering the charters. This would "reserve the right that so they may have it again by a regrant," from the king. Likewise, North recommended that "the charges of new charters shall not be excessive, but the fees reduced," ensuring that corporations that might lack funds to renew their charters would still be able to participate. Finally, corporations that voluntarily surrendered their privileges ought to be "gratified with fairs or markets or jurisdiction in civil causes," each of which would "be more for their profit." Each of these proposals greased the wheels of municipal surrender, assuaging fears and offering incentives to "good corporations."[133] We will examine the working of this policy in the next chapter, when we see how royal officials worked to influence local debates over corporations and charter surrenders.

Corporations that refused to surrender would receive none of the benefits North had laid out. They would instead answer "the king's writ, in Westminster Hall," where they would have to demonstrate impeccable records of their use of their franchises "without regard to the value of the offence" – in other words, if any charter privilege had been broken, the charter would be

[133] "Of Corporations", "In Order to Surrenders and Renewal of Charters" BL, Add MS 32,518, ff 184r-v.

forfeit. If their charters were seized in court corporations would be entirely at the mercy of the king who would remake their privileges and reconstitute their government as he and his ministers saw fit. At the end of his memo, North put the matter bluntly: "let evil corporations take care of these consequences in standing out."[134]

The most "evil corporation," the one that had inspired North to formulate a corporate policy in the first place, was the City of London. In response to the claim in the *Quo Warranto* that the City had forfeited its corporate status by numerous breaches of its charter and the trust reposed in it as a body politic under the crown, the City answered that London was, and remained, "a body corporate and politic, by name of Mayor and Commonalty, and Citizens of the City of London."[135] Rather than surrendering to the crown, as was customary in cases where a franchise was questioned, London had resolved to abide the trial. At stake was the whole project of the Tory Reaction – if London could escape regulation, then other corporations would be encouraged to emulate its example. Yet if England's metropolis could be made to submit to the crown, then so too could every other corporation across the empire. In *Rex v. London*, the new corporate policy of the 1680s faced its greatest challenge.

Rex v. London and the Apotheosis of Tory Corporate Policy

The barristers in *Rex v. London* were among the most well-connected lawyers in Restoration England. The crown was represented by Sir Heneage Finch the Younger, son of the Lord Chancellor who had argued for the passage of the Corporation Act in the Commons decades

[134] "Papers of Lord Keeper Guilford as a Justice of Assize, Chief Justice of the Common Please, and Lord Chancellor" Bodleian, MS North b. 8, f 397r; "A View of the Several Judicatures in England, "Of Corporations" BL, Add MS 32,518, ff 156r, 184v. Jenkins transcribed it as "let ill corporations take care": "Observations Concerning Charters to Corporations" (May? 1682) TNA, SP 44/66, p 90.
[135] *ST*, VIII: 1041-2. This answer came after months of delays. For a plea for additional time to plead, see "Rex v. London Plea" (5/19/1682) Bodleian, MS Rawl. C. 740.

before, and Attorney General Robert Sawyer, a kinsman and friend of Lord Chief Justice North, with whom he had collaborated to develop the crown's corporate policy.[136] The City was represented by Sir George Treby, Recorder of London who, as MP for Plympton, had implicated the Duke of York in the Popish Plot, and by Henry Pollexfen, a leading counselor in the Western Assizes circuit.[137] The arguments on both sides covered a wide range of issues, but for our purposes the most important concern the charges leveled against the city, and the role each side saw corporations playing in the government of the realm.[138]

The crown's arguments in *Rex v. London* paralleled those North had laid out in his program of corporate reform. They began, as North had, with an account of the provenance of corporate power. "The king is the original and commencement of all franchises," opened Finch. "They have their beginning from him" and "there can be no corporation, but by the king's letters patents."[139] Sawyer began much the same way, noting that "all jurisdictions and franchises" were "lodged in the crown, and thence only is derived." The king, he concluded, was "the donor, and the fountain and spring from which this and all other liberties flow." Kings had granted franchises, including the franchise of being a corporation, for the sake of their subjects. "The general intent and end of all civil incorporations is in order to better government," Sawyer stated.[140] For this reason, all corporations had "a trust or condition in law, that is annexed to, and

[136] M.W. Helms and Leonard Naylor, "FINCH, Heneage (1621-82), of Ravenstone, Bucks. and Kensington, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/finch-heneage-1621-82; "Francis North to Jenkins" (2/11/1680[/1]) TNA, SP 29/415, f 67r.
[137] J.S. Crossette and Basil Duke Henning, "TREBY, George (1642-1700), of Fleet Street, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/treby-george-1642-1700; J.S. Crossette, "POLLEXFEN, Henry (c.1632-91), of Woodbury, Devon and Lincoln's Inn Fields, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/pollexfen-henry-1632-91; Robert White, "Pollexfen, Sir Henry (c. 1632-1691)" in *Oxford Dictionary of National Biography*, May 26, 2016, https://doi.org/10.1093/ref:odnb/22474.
[138] For an examination of all the subjects treated in the case, see Levin, *Charter Controversy*, 29-49.
[139] *ST*, VIII: 1087.
[140] *ST*, VIII: 1156-8.

grows upon all franchises, that they be not abused, and the breach of them is a forfeiture." There was, said Finch, "no rule in law more certain than that the misuser of a franchise, is a forfeiture of that franchise."[141]

The central premise of the crown's argument was that the Corporation of the City of London had committed two breaches in violation of the king's trust reposed in them for the "good government" of the City. The first charge against the City concerned a by-law of the Common Council passed in 1674. The Council had published an ordinance requiring that "all and every person and persons resorting to any of the… markets" in the City should pay a fee "for their stalls, standings, and other accommodations," the profits of which should be put "to the use of the Mayor and Commonalty and Citizens of the City of London." All who refused to pay would be removed.[142] According to the government, this was a gross oppression. The Common Council had "under color and pretext [of law], but respecting only their private gain and profit… assumed an unlawful and unjust authority to levy money upon the king's subjects" to the tune of 5,000 l. per annum.[143] Finch argued that the main reason that the levies were illegal had to do with their indefinite quality. The City claimed a right to regulate the markets, and to levy fees on them, by prescription, but according to Finch even a right by prescription to levy tolls "must be prescribed for in a certain sum," so that a broad discretionary power to levy whatever fees the Common Council thought "reasonable" was too vast to be good in law.[144]

Sawyer's description of the charge was more theoretically sophisticated, and it touched at the very heart of the role that corporations were meant to serve within the polity. "Corporations,"

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[141] *ST*, VIII: 1087-8. Other jurists had made similar claims, but these laws had not been enforced. Matthew Hale, *The Prerogatives of the King* DEC Yale, Ed. (London: The Selden Society, 1976), 244.
[142] *An Act for the Settlement and Well Ordering of the Several Publick Markets within the City of London* (London: Printed by Andrew Clark, 1674).
[143] *ST*, VIII: 1051-7.
[144] *ST*, VIII: 1096.

Sawyer suggested, "are by law entrusted with a power to raise money for uses public to the community." He allowed that "the City of London have, by several charters, such express power." Yet that power was "confined to their own members." The City "cannot lay their charge upon foreigners," by which he meant non-citizens. The program of tolls and levies laid out by the 1674 ordinance, however, was laid "upon foreigners as well as citizens," that is, upon all English subjects, not just the freemen of London. These tolls, of course, were then "converted and disposed" to the use of the City. For Sawyer, this was "an abusion of the liberty of a body politic in its highest point of trust, viz., of making laws for the better government of its members, and other the king's subjects." According to the crown, the City had received its powers and authority for the ease of the king and the administration of his dominions. Levying money for the City's own benefit was a usurpation of that authority, an act of extraction that "oppress[ed] and depauperat[ed] the king's subjects coming to the markets." By levying fees for the City's own use, they had "rais[ed] the prices of provisions in markets, to the damage of the king's subjects" and manifestly deserted "the king and his crown, contrary to the trust reposed in them as a body politic."[145] By enriching the corporation at the expense of "foreigners," London had betrayed its responsibility for "good government" and presumed to prey on the king's subjects for its own benefit.[146]

To this, the barristers for the City answered that the fees were legal, reasonable, and for the good of the subjects. The City had long possessed a "power of making ordinances for governing and regulating trades, buying and selling within the city," asserted Pollexfen.[147] This

[145] *ST*, VIII: 1195-7.
[146] This has interesting parallels to the political economic debates of the period – London's ordinance had outlined that the purpose of these fees was to improve the facilities of the markets, a more developmental approach, but the argument Sawyer makes suggests that he thought of the matter in more zero-sum terms. See Steven Pincus, *1688: The First Modern Revolution* (New Haven: Yale University Press, 2009), 366-399.
[147] *ST*, VIII: 1228.

power had been confirmed by custom as well as statute. The fees themselves were not massive, Treby added, and he noted that "they that come to the market, think not fit to complain" and that the fees were "voluntary," to the extent that trading in the City's markets was not obligatory. Yet beyond defending the justness of the fines, the City's main answer to this charge was that the fees had not been levied for the corporation's private gain. London had been at "vast charge in preparing and providing" these markets, paying for officers to patrol them and for their regular cleansing. Moreover, London paid taxes on the markets, "for the land is ours." At their own charge, the citizens of London erected and maintained the best accommodations for merchants in all the kingdom – accommodations which, far from "depauperating," the subjects, enriched the whole nation. "London is the market of all England," thundered Treby, "and there is never an acre in England, but is the better for that." Given that the City had "provided the marketplaces at our own charge," it was only reasonable and just that those who "will use them… pay some compensation for it" and provide for its upkeep.[148] London had fronted the costs of developing England's commercial economy – the fees it levied were for the benefit of all subjects.

The crown presented the second charge against the City as a cause for even greater alarm. London had, they claimed, "unlawfully, maliciously, advisedly, and seditiously, and without any lawful authority, assumed upon themselves '*ad censendum et judicandum dictum dominum regem, et prorogationem parliamenti per dominim regem sic fact*.'"[149] This allegation concerned a petition that the Common Council of London had drawn up in January 1680/1, shortly after the prorogation of the Second Exclusion Parliament. On January 13, the Common Council met and considered a petition from "divers citizens and inhabitants of [the] city, representing their fears

[148] *ST*, VIII: 1121, 1123-8.
[149] *ST*, VIII: 1063-1064. The Latin translates to "to assess and judge the said lord the king, and the prorogation of the Parliament, which by his royal prerogative the king may do."

from the designs of the papists and their adherents, and praying" the Common Council "to acquaint his Majesty therewith, and to desire, that the Parliament may sit… until they have sufficiently provided against popery and arbitrary power." The Council had appointed a committee including Recorder George Treby to draw up a petition to the king to this effect. After recounting some of the anxieties surrounding "the horrid and execrable Popish Plot… for the destruction of your Majesty's sacred person and government, and extirpation of the Protestant religion, and the utter ruin of your Majesty's protestant subjects," the petition turned critical. "Considering the continual hazards" to which Charles, the kingdom, and the Protestant religion were exposed by "the hopes of a popish successor," the Common Council, on behalf of the City, expressed themselves "surprised at the late prorogation, whereby the prosecution of the public justice of the kingdom, and the making the provisions necessary for the preservation of your Majesty, and your Protestant subjects, hath received an interruption." The petition concluded by asking that Charles "permit your said Parliament to sit" until the dangers posed by the plot were adequately dealt with. It was presented to the king the next day, and, along with the proceedings in the Common Council leading up to it, printed by the City's printer.[150]

According to the barristers for the crown, this petition was a great usurpation of the royal prerogative, both as to its content and its form. The king "alone, and none but he, [has] the undoubted prerogative of calling, proroguing, and dissolving parliaments," argued Finch. To call the proroguing "an interruption of justice, is all one as to say, the King did interrupt." The claim that Charles had "interrupted the prosecution of the public justice of the kingdom," agreed

[150] *The Humble Petition of the Right Honorable the Lord Mayor, Aldermen, and Commons of the City of London, in Common Council Assembled, on the Thirteenth Day of January, 1680, to the King's Most Excellent Majesty, for the sitting of this Present Parliament* (London: Samuel Roycroft, Printer to the City of London, 1680[/1]); London Common Council Book (1/13/1680[/1]) London Archives, COL/CC/01/01/47, ff 170r-171v; Luttrell, *A Brief Historical Relation of State Affairs*, I: 63. Two days after receiving the petition, Charles dissolved Parliament. "Privy Council Register" (1/16/1680[/1]) TNA, PC 2/69, pp 184-5.

Sawyer, "imports the greatest scandal imaginable." "There is as much venom concealed in as few words as ever I met with," he concluded.[151] This notion that petitions for a parliament were a scandalous invasion of the prerogative was well worn by the time the crown made these arguments in 1683.[152] Petitions for the sitting of parliament had been a staple of Whig politicians throughout the Exclusion Crisis. As early as November 1679, Robert Southwell had warned of a petitioning campaign to pressure the king to let parliament sit, and in January 1680 Charles had angrily responded to a petition from Wiltshire, claiming that its presenter, Thomas Thynne, was "an impertinent fool" who had concerned himself in something akin to "rebellion."[153] As Mark Knights has shown, petitioning for a parliament in both London and the provinces was a key factor in the political polarization of the crisis years, as it shifted the focus of Whig ire from the king's ministers and brother to the king himself.[154] The content, and consequently the objections to the Common Council's petition from January 1680/1 drew upon a history of conflict over petitioning throughout the Exclusion Crisis.

The most alarming feature of the London petition, from the perspective of the crown's barristers, was that it had been printed. "The offense is not only in the presenting, but in printing and dispersing of it," argued Finch. "The printing and dispersing it is now publicly scandalizing and libeling the king… because tis an appeal to the people."[155] The petition betrayed a plain design, according to Robert Sawyer, to "incite or stir up the people to hatred or dislike of the

[151] *ST*, VIII: 1097-1098, 1207.
[152] Arguments were heard on February 7, (Finch and Treby), April 30 (Sawyer), and May 1 (Pollexfen). See Newdigate Newsletter (2/8/1682[/3]), (5/1/1683) FSL, LC 1335, 1370.
[153] *HMC Ormonde NS*, IV: 558; "Edward Reresby to Sir John Reresby" (1/24/1679[/80]) West Yorkshire Archive Service, Leeds, WYL156/R/14/97; "Newsletter to Christopher Bowman at Newcastle on Tyne" (1/22/1679[/80]) in F.H. Blackburne Daniell, Ed., *Calendar of State Papers, Domestic Series. January 1st, 1679 to August 31st, 1680. Preserved in the Public Record Office* (London: His Majesty's Stationery Office, 1915), 377.
[154] Knights, *Politics and Opinion in Crisis*, 227-257; Mark Knights, "London's 'Monster' Petition of 1680" *The Historical Journal* 36, no. 1 (March 1993): 39-67.
[155] *ST*, VIII: 1097-8. This also perturbed the justices. Ibid, 1146.

person of his majesty, or the established government." This, clearly, was a violation of the trust reposed in the corporation – how could "publicly libeling" the king, "and his public acts, to the people" be for the good government of the kingdom? After all, for "inferior magistrates" to examine, censure, and judge the acts of their superiors would "let in confusion, and tend to the overthrow of all government."[156] The petition was dangerous, not just for what it said, but for what it and its publication indicated about the existence of a "public sphere," a social realm where subjects critically assessed affairs of state.[157] The very notion that subjects could judge the political actions of monarchs challenged the political order, attempting (so the crown's barristers claimed) to bring public pressure to bear on the king. In happier times, Sawyer suggested, the City had "petitioned the king with good acceptation, and observed a good decorum becoming subjects." Their concerns were not national or general, but were instead focused purely on local issues. The citizens "used not to advise or meddle in matters of state, but when sent for to advise, they confined themselves to the affairs of the city," informing the king of local grievances and conditions of which they were knowledgeable.[158] Yet in petitioning for parliament to sit they had departed radically from their rightful parochial focus and begun weighing in on matters of national importance and judging the actions of their sovereign. The petitioners had taken upon themselves "to censure the king and his government by this petition," claimed Finch.[159] "How criminal is it for private subjects to deliberate of, and determine, and publicly to censure the counsels and actions of their princes," lamented Sawyer. Punishing London was in part an effort

[156] *ST*, VIII: 1205, 1210.
[157] On the "public sphere," see Jurgen Habermas, *The Structural Transformation of the Public Sphere*, Thomas Burger and Frederick Lawrence, trans. (Cambridge, MA: Massachusetts Institute of Technology Press, 1989 [1962]), 14-31; Peter Lake and Steven Pincus, "Rethinking the Public Sphere in Early Modern England" in Lake and Pincus, eds., *The Politics of the Public Sphere in Early Modern England* (Manchester: Manchester University Press, 2007), 1-30.
[158] *ST*, VIII: 1206.
[159] *ST*, VIII: 1098.

to suppress this public political engagement, making clear that Charles would not tolerate reflections on his rule from his subordinate magistrates. If the corporation's presumption were not punished, warned Sawyer, then "the king shall exercise no just prerogative but at their good pleasure; otherwise, they will blast him to his people, and alien[ate] their affections from him."[160] England's lawful monarchy could never be safe when inferior magistrates threatened to turn the world upside-down. The content, and more especially the form, of the City's petition from January 1680/1 was a usurpation that could not be tolerated.

Here, the City's barristers proceeded with great caution. They began with a standard Whig talking point: the practice of petitioning the king "in our necessities and extremities" was always justifiable – petitioning could not be treasonous. Moreover, the text of the petition did not cast any aspersions upon Charles or his conduct, but instead stated plain facts. "The prosecution of the offenders" in the plot, the Lords in the Tower, had received interruption by the prorogation. So too had "the making provision for the preservation of the king's person, and of his protestant subjects" by "bills depending in the Parliament for that purpose." On this latter point, Treby argued, even the king seemed to agree – in his speech to Parliament on March 6, Charles had asked for bills to be drafted for securing his person and the kingdom. "When the king himself speaks of the necessity of making such" laws, Treby asked, how could anyone claim that justice had not received interruption? Yet this was not the same, he asserted, as saying that Charles had prorogued parliament "intend[ing] to interrupt justice." The king "for great causes, and best known to himself," did prorogue Parliament, perhaps with "good intention, that he might be the better enabled to concur with" them.[161] To say that the king's act had "prejudicial" consequences "in one particular" was not to deny that it might on the whole "be

[160] *ST*, VIII: 1211-1212.
[161] *ST*, VIII: 1131-4.

useful to the public."[162] This was a convoluted argument, and one that LCJ Saunders did not find convincing.

As for the publication of the petition, the city denied any attempt to rile up the public by its publication. It was true, conceded Treby and Pollexfen, that the petition concerned a national rather than a parochial subject, but the distinct was an arbitrary one. There was "a plot against the life of the king, the government, and the protestant religion," argued Pollexfen, which had made "divers of the citizens… much affrighted, and troubled in their minds, with… apprehensions of the dangers."[163] Londoners were impacted by national events, and might petition about them. It was only just that, upon learning of the concerns of the citizens whom they represented, the City should express the concerns of their citizens to the king. Publishing the petition was necessary for the City's good government, not to enflame the passions against the king, but to quiet the minds of the subjects, "to make known… what the common council had done" and to prevent the spread of rumor by showing "that there was nothing ill in it."[164] Transparency, suggested Treby, was a tool for settling the anxieties of the subjects and promoting tranquility.

The two allegations against the city were, as Sawyer admitted, taken "out of many sufficient causes for seizure." Among the many other offenses the city had committed were "notorious riots committed in the face of justice," which had been "countenanced and encouraged by" the magistrates (a probable reference to the riots following Shaftesbury's *ignoramus*); "the encouragement of libels and libelers of the king and government"; and the "burning in effigy several of the king's protestant subjects."[165] Yet the selection of these two speaks to the more general philosophy behind the government's case: that unchecked corporate

[162] *ST*, VIII: 1145.
[163] *ST*, VIII: 1233.
[164] *ST*, VIII: 1135-6.
[165] *ST*, VIII: 1194-5.

autonomy was a threat to good government, both as to the interests of subjects, and as to the crown. By focusing on an offense at the expense of the subjects, and an offense at the expense of the sovereign, the king's attorneys emphasized the necessity of royal oversight for the security and well-being of the realm, and the direct relationship between subject and sovereign that overmighty corporations threatened.

Finch and Sawyer certainly believed the law was on their side, and that they had proved that London had forfeited its charter by virtue of the breaches alleged. As Finch had put it, there was "no rule in law more certain than that the misuser of a franchise, is a forfeiture of that franchise."[166] Yet the bulk of their argument concerned the political consequences that would result from a ruling repudiating that axiom, and the repercussions they foretold were dire. The crown's view of corporations, outlined in *Rex v. London*, was that neither king nor subject could be safe if corporations might act with impunity. The good government of the kingdom required that corporations must be forfeitable for misuse or abuse of their franchise, which was, after all, but a trust for the good government of the king's subjects. Both Finch and Sawyer pushed the argument of absolute corporate privileges to its breaking point. "Suppose a corporation under their common seal should authorize a rebellion," queried Finch. "Would any man say that there were no forfeiture" of their charter?[167] Sawyer posed the same hypothetical, suggesting that if "a corporation once constituted is out of the reach of the common law" then even if it should "vote raising of men against their prince, and give authority, under their common seal, to levy money for that purpose" they could not be called to account.[168] This, he implied, was precisely the end that London's common council had been aiming at. The two charges pressed by the government,

[166] *ST*, VIII: 1088.
[167] *ST*, VIII: 1088-9.
[168] *ST*, VIII: 1148-9.

according to Sawyer, "have an immediate tendency to a rebellion." By their seditious petition they would "alienate the subjects' affection from their prince"; by assuming a power "to levy any money to their own use" they would assure their party of such "legislative power to assist them with supplies." Add to this a third and final ingredient, "as was contrived and endeavored to be established: that London should become the asylum of all malcontents… who might vent their gall against the government impune, and without fear of conviction."[169] London's jurisdictional autonomy meant that it could harbor faction within it until they were ready to strike. Placing all of these in the same frame demonstrated a clear desire to bring on a rebellion against the crown, incubated and funded by unchecked corporate autonomy. "The ill consequences," that would proceed were "so many, and the danger so evident in these licentious days," argued Finch, "that I do not know indeed whither it may tend."[170]

Nor was the problem unique to London. The offenses the crown's barristers complained of were "common… to the city of London, with other cities and populous corporations."[171] The absolute immortality of corporations that London's defenders trumpeted would set up many "independent commonwealths within the kingdom."[172] "How many oppressions and offenses would be daily committed," Finch asked, "if every corporation were a franchise and jurisdiction independent upon the crown?"[173] In such a situation, said Sawyer, "it would be unsafe, either for the king or any of his subjects, to live in or near a corporation." For this reason, Sawyer acknowledged, *Rex v. London* was about far more than just London. "This case between the king and the City" he began, "must be acknowledged to be a case of importance… as it refers to the

[169] *ST*, VIII: 1196-7.
[170] *ST*, VIII: 1098.
[171] *ST*, VIII: 1195.
[172] *ST*, VIII: 1178, 1155.
[173] *ST*, VIII: 1090.

general government of the kingdom."[174] The security of the realm, and of good government based in royal supremacy, depended on the subordination and regulation of corporate autonomy.

The City's case, like the crown's, was centrally concerned with the disruptive consequences of an adverse ruling. The City's attorneys began by denying that any precedents existed for dissolving or forfeiting a corporation for misuse or abuse. "The dissolving of a corporation by a judgement in law," argued Treby, "is a thing that never came within the compass of any man's imagination till now."[175] "There is not on their side," added Henry Pollexfen, "one precedent, judgement, or opinion to maintain… that a corporation, or body politic, ever was determined, or dissolved, or taken away for a forfeiture."[176] This was a point that even Finch allowed.[177] From this, the City's attorneys concluded that such a forfeiture or dissolution of a corporation was impossible. After all, if such a thing were possible, surely Henry VIII would have used it during the dissolution of the monasteries.[178] It was impossible, suggested Treby, because corporations were not franchises, like markets or elections, but mere capacities. A corporation, he argued, was simply "the capacity of being plaintiff and defendant," the ability to sue and be sued. The "power to be impleaded and to plead" was "not properly a franchise that is superadded" to a person or group, but a capacity incident upon personhood.[179] The king might take franchises and privileges away from the corporation, but he could not take away the corporation's very being.

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[174] *ST*, VIII: 1147-9.
[175] *ST*, VIII: 1104-5.
[176] *ST*, VIII: 1213.
[177] *ST*, VIII: 1090. Finch found no precedent for forfeiture/dissolution, but Finch and Sawyer agreed that corporate liberties have been seized in the past. They disagreed about whether this necessarily means they had been forfeited. Levin, *Charter Controversy*, 30-31.
[178] *ST*, VIII: 1107,
[179] *ST*, VIII: 1101-4.

Yet, more importantly, such a thing was not necessary. All the talk of treason under the great seal of the corporation was simple alarmism – the supposed misdeeds of corporate power were not the deeds of corporations, but of the individuals who held office within them. Treby and Pollexfen agreed with the crown that corporations did not possess authority to commit unlawful acts. The King did not give them "a power or authority… to make by-laws that were unreasonable; he gave them a power to make reasonable by-laws." From this they concluded that "What the corporation does… beyond [the limits of its authority], be void." "No corporation is to be considered as a corporation, but only when it acts according to the capacity allowed to it." Illegal acts, beyond the capacity of a corporation to commit, were the acts of corporate officeholders, not of the corporation. "It is the act of the members, not of the corporation, if they do wrong." The regulation of corporate officeholders in their private capacities provided the best security against acts of treason committed through (not by) corporations. "When they go out of their corporate business, and commit treason or felony… they are all liable in their private several capacities." They "must be indicted personally, and suffer personally."[180] The anarchy and disorder which the crown's barristers promised would ensue if corporations could not be forfeited was, so the City argued, amply satisfied by the regulation of those persons who violated the trust of the crown and the city and committed illegal acts.

In place of the fears of rebellion trumpeted by the crown, the City's barristers offered an alternative set of anxieties: the crown's case, if it prevailed, would totally upend England's government. They pointed to two aspects of the government's case as particularly destabilizing: first, the ipso facto dissolution at the time of the offence, and second, the lack of consideration for the scale of that offense. When the information had gone out against the City, it had claimed

[180] *ST*, VIII: 1139-1143.

that London "used, and yet do claim to have and use, without any lawful warrant" diverse privileges, including the privilege "to be of themselves a body corporate and politic."[181] In other words, London was no longer legally a corporation. The crown's argument implied that London had not been a corporation since it had breached its trust – that is, since 1674, when its Common Council passed the market ordinance. Every action the corporation had taken in the nine years since – every purchase, ordinance, legal decision, etc. – was, on this logic, invalid. By itself such an ipso facto dissolution was alarming; combined with the minuteness of the fees concerned it was absurd. "The greater or the lesser sum" of the tolls made no difference in the crown's argument, noted Treby. The crown had argued that the City received 5,000 l. per year for the tolls. But "why is it not a forfeiture to receive 500 l.? Why not to receive 5s? Why not to receive 5d?" If the amount was irrelevant, then all were equally breaches of the corporation's trust. So it might be that by an unlawful by-law London had "levied 5d., and therefore all this great inheritance of London, that is the greatest inheritance of this kingdom, is forfeited for a trifle upon three halfpence, or a basket of eggs."[182]

To make such a doctrine the law of the land would court disaster. "The end of the law," argued Pollexfen, "is to preserve the peace and quiet." Yet the doctrine of corporate forfeitability would overthrow everything. Were the doctrine true, it "must have extended to all corporations formerly, and it must do so to all still." If every corporation was forfeit for the most trivial violation, then it was unlikely that "any corporation in England… hath not offended or transgressed," for "perhaps we are sinners all." In short, argued Pollexfen, this doctrine would "make all the corporations of England, of all sorts, forfeit at once, and perhaps manner years since." What calamities would follow from thence? London's "frame of government has lasted

[181] *ST*, VIII: 1039-1040.
[182] *ST*, VIII: 1128, 1144.

and been preserved for many hundreds of years" observed Treby, but many others had existed for centuries or decades. In that time "so many people put their trust in those corporations, and so many vast inheritances depend upon them." English men and women across the kingdom and beyond had property interests, franchises, and pride tied up with these corporations – at a stroke, all these would be swept away. Charity, religion, and education would likewise be lost. The decision would "dissolve and destroy all the colleges in the universities and all the charity in the kingdom." The effects "upon the whole ecclesiastical estate" would be disastrous. Within the corporations themselves, the newfound capacity for surrender would inspire fresh dissensions. Pollexfen observed that the crown's new corporate policy had already produced "divisions and contentions… some for surrendering, others for defending," conflicts likely to "end in the destruction of both parties." Worst of all, perhaps, would be the impact on Parliament. "Three parts of four of the House of Commons" were chosen by citizens and burgesses, according to Pollexfen. If a parliament should be called, and those forfeited corporations could not lawfully send burgesses, the government of the realm would be undone, and so "our laws and posterity" were concerned in the case. The City's barristers acknowledged the need to check misconduct perpetrated by corporate officeholders in their individual capacity. Yet the government's program for doing so by demanding corporate forfeiture would cause more problems than it solved. All those who relied on corporations would "start, and cast about how to avoid" the instability which would surely cause them in "flying from one danger, [to] run into another." If the crown's barristers were truly concerned with good government, they could not attempt such a bold and dangerous "innovation" as asserting that corporations were ipso facto forfeit for any offense.[183]

[183] *ST*, VIII: 1106-7, 1144, 1224, 1256-7.

At its core then, the arguments between the City and the crown focused on two sources of discord and asked the judges (and, as we shall see in the next chapter, the English public) to choose between them. Was the government of England in greater danger from unregulated corporate autonomy, capable of arbitrarily taxing the subject and rebelling against the sovereign? Or were corporations so fundamental to England's government that the disruption caused by their widespread forfeiture and surrender would make the nation ungovernable? The heart of the dispute was about two opposing views of "good government," and about whether corporations as presently constituted were an obstacle or a bulwark of the public good.

The justices of the Court of King's Bench, unsurprisingly, sided with the crown.[184] Lord Chief Justice Saunders being ill, Justice Thomas Jones delivered the judgement of the court on June 12. The Court found that "upon breach of [their…] trust for the good government of the King's subjects" corporations like the City "may be forfeited or seized into the king's hands." They explicitly echoed the anxieties outlined by the crown's barristers, expressing solidarity with their vision of "good government" in their opinion. If corporations were not forfeit for abuse or misuse, thundered Jones, "it would erect as many independent republics in the kingdom as there are corporations aggregate… How fatal that may prove to the crown and the government now established, every man may easily conceive." Following this initial blow, each of the questions before the court went against the City: the levying money upon their fellow subjects "is a great oppression upon the people, and a breach of that trust… for the[ir] welfare"; the petition, particularly exhibiting and printing it, "tend[ed] to sedition… and rebellion"; these acts "were the

[184] "Unsurprising" because Charles had stacked the deck in his favor, replacing Justice William Dolben and LCJ Francis Pemberton with Justice Francis Wythens and LCJ Edmund Saunders, the latter of whom helped draw up the pleading for the crown. Luttrell, *Brief Historical Relation of State Affairs*, I: 255; Levin, *Charter Controversy*, 27-28. After the first round of argument, Luttrell recorded that "many are of opinion it will go against the city." Luttrell, *Brief Historical Relation*, I: 249.

acts of the corporation," rather than particular officeholders, and were not justified by the City's barristers in their rejoinder. On the whole matter, the court declared "that the franchise and liberty of London be taken into the king's hands."[185]

The crown had triumphed. *Rex v. London* had been the ultimate test of North's new corporate policy – no other corporation was so wealthy, so fractious, or so dangerous. The failure of the Corporation Act in 1680 and the abuses of London's shrieval autonomy in 1681 had convinced Charles and his ministers of the necessity of a more ambitious program to subordinate corporations to royal government, a program centered on a massive rechartering effort rather than a parliamentary statute. London, more than any other corporation, had inspired this shift in policy and pushed the crown to embrace more radical solutions.

The policy had already begun to pay off by the time the decision was handed down. In the year and a half between the issue of the initial information against the City and the judgement, nine municipal charters had passed the great seal. Each of these bore the marks of the program North had initially conceived for London. Yet each of these had come from places where leading corporate officeholders, or at least some of them, had been willing to surrender. These were the "good corporations" that North had described in his initial memo. With victory against the City, the government had acquired a judgement with which they could intimidate "evil corporations" into compliance. The *London* decision would have massive ramifications for corporations throughout England and its empire. In the three chapters that remain, we shall examine the impact of the London decision on England's municipalities, the Massachusetts Bay Company, and the East India Company, to see how North's new policy, developed for the

[185] *ST*, VIII: 1271n-1272n. At the request of AG Sawyer, the seizure was not enrolled to give London time to surrender its charter voluntarily. We shall examine the debate in London and other corporations over whether to surrender in the next chapter.

regulation of the foremost corporation in the empire, was deployed across all of the king's dominions.

PART II:

The Tory Reaction and Corporate Politics, 1681-1685

A "Great and National Concern":

The Politics of Charter Surrender in England's Municipalities, 1682-1685

Introduction

On a winter's day in March 1685, Sir Thomas Grosvenor, Mayor of Chester, led a party of local notables, including "the High Sheriff, [the] Governor [of Chester Castle] Sir Philip Egerton, and a great many other gentlemen of the county" through the city's gates.[1] Grosvenor carried with him an invaluable document – Chester's new corporate charter, embellished with gold leaf and sporting a full-color oil painting of the recently deceased monarch, Charles II.[2] The charter was the physical embodiment of royal authority, the grant which constituted the town government and bestowed upon it power to act in the King's name. Grosvenor was, in essence, bringing the King to town, and the resulting spectacle showed it. When they reached the city gates, the men were met by the justices, aldermen, and common council dressed in all their civic finery, and by the militia in arms, and twenty-four companies of tradesmen. They were shepherded through the streets by the battalion of the Chester garrison, cheered on all the while by "the loud and repeated acclamations of the people."[3] Here was a triumphal procession, a glorious parade of civic pride and local support for royal power. Grosvenor had carefully managed the affair in the preceding days, ensuring that the charter was brought into town "with the greatest splendor that [was] possible."[4] When the charter was opened, he advised, the clerks should "cause proclamation that all persons be of good behavior and keep silence," as though the

[1] *London Gazette* #2015 (3/9-12/1684[/5]). Sir Thomas Grosvenor was evidently proud of his accomplishment in bringing in the new charter – he kept a copy of this issue of the *London Gazette*, with the arrival of the new charter and his election to the first parliament of James II marked off. See Eaton Hall Manuscripts, PP 4/12. I am grateful to His Grace, the Duke of Westminster, and Louise Benson, archivist at Eaton Hall, for allowing me to access manuscripts held there.
[2] Charter of Charles II (2/9/1684[/5]) Cheshire Archives and Local Studies, CH 39.
[3] *London Gazette* #2015 (3/9-12/1684[/5]).
[4] "Sir Thomas Grosvenor to ?" (2/9/1684[/5]) Eaton Hall Manuscripts, PP 4/11.

King himself were speaking to them.[5] The charter was written in the first person, and its text was the voice of the King. After reading the new charter and showing the King's shining visage to the assembled citizens, Grosvenor "came to the cross, drank the King's health, and ordered the conduit to run with wine." The whole company was treated "very splendidly, the great guns firing from the castle with volleys of small shot, music playing, and bells ringing."[6]

The arrival of Chester's charter, the last of Charles II's reign, was the final episode in the decline of corporate autonomy during the Tory Reaction (1681-1685), a years-long project to reconstruct the English state and destroy the Whigs, a coalition which had threatened royal authority by attempting to exclude the king's Catholic Brother James, Duke of York, from the succession. From March 1682 to February 1685, 59 charters of incorporation passed the Great Seal of England, a stunning increase from previous years where between 1 and 2 charters might pass the Seal annually.[7] These new charters radically expanded royal authority over municipal government – key corporate officeholders now served at the pleasure of the prince, and could be removed for any reason. In the previous chapter, we focused on the genesis of this policy in Whitehall in the early 1680s, the crown's disillusionment with the Corporation Act, and the creation of a new corporate policy centered on mass rechartering in 1681-2. Yet as the celebrations at the arrival of Chester's charter show, this effort was not imposed on unwilling localities. Figures within England's towns collaborated and facilitated local policy, celebrating the loss of traditional chartered autonomy with elaborate displays of loyalty. In this chapter we turn from the crown to the towns to examine the debates over surrender in England's

[5] "Memo Concerning the Rules to be Observed at the Opening of Charles II's Charter at Chester" (Feb 1684[/5]) Eaton Hall Manuscripts, PP 4/13.
[6] *London Gazette* #2015 (3/9-12/1684[/5]).
[7] 16 borough charters passed the great seal during the 1670s. For the list of charters see Appendix A to Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998), 351.

municipalities, and to explain why so many corporations voluntarily surrendered their ancient liberties to the crown.

In the previous chapter, we explored the historiography of the corporate policy of the Tory Reaction in some depth. Most of that material does not bear repeating here, but it is useful to take stock of two key points about this historiography: first, what role have historians assigned to actors in the municipalities? And second, how radical did they perceive the new charters to be? We saw that the Whig historiography, epitomized by JH Sacret, saw charter reform during the Tory Reaction as a "generally unpopular" "extension of the royal prerogative at the expense of ancient and cherished… rights of municipal self-government."[8] The traditional view thus saw the circumscribed charters of the 1680s as a radical imposition by the monarch on an unwilling populace. In his revision to the traditional story, Robert Pickavance saw radical royal ambitions pared down by a reliance on local support – the necessity of collaborating with local Tories moderated the crown's project.[9] Revisionist historians in the 1980s such as John Miller agreed with Pickavance that the new charters of the Tory Reaction were not very radical, but attributed this to their local provenance rather than the need for the crown to compromise with local Tories. Local Anglican Royalist Tories pursued new charters to establish their own authority within their boroughs, but beyond this relatively modest ambition these men were conservative, and the rechartering that they promoted aimed narrowly to preserve the status quo.[10] Paul Halliday, certainly the most influential historian of this process in recent decades, sees local participation

[8] J.H. Sacret, "The Restoration Government and Municipal Corporations," *The English Historical Review* 45, no. 178 (April 1930): 232.
[9] Robert Pickavance, "The English Boroughs and the King's Government: A Study of the Tory Reaction, 1681-85" (PhD Diss, Oxford University, 1977), v, 109-110, 138-139, 186-188, ch. 3 ("Policy-making"), 216-7.
[10] John Miller, "The Potential for 'Absolutism' in Later Stuart England" *History* 69, no. 226 (1984): 195-197; John Miller, "The Crown and the Borough Charters in the Reign of Charles II" *The English Historical Review* 100, no. 394 (Jan 1985): 55-56, 74, 79-82; John Miller, *Cities Divided: Politics and Religion in English Provincial Towns, 1660-1722* (Oxford: Oxford University Press, 2007), 182; Colin Lee, "'Fanatic Magistrates': Religious and Political Conflict in Three Kent Boroughs, 1680-1684" *The Historical Journal* 35, no. 1 (Mar. 1992): 59.

in borough remodeling during the Tory Reaction as a continuation of the decades-long cycle of local purges and counterpurges that began in the wake of the civil war. These purgative cycles were motivated by a "corporate ideal" of "internal unity," and by the perception that "continuous, 'contrived' division" was a "great political sin." In Restoration England, that continuous division came from "religious sympathies and personal angers," localized antipathies that created private interests and parties which sought "to exclude their foes from public life in order to restore unity."[11] For Halliday, there was nothing particularly novel about the local dynamics of partisan conflict during the 1680s.

Each of these narratives has problems. The traditional Whig story of a generally unpopular top-down assertion of royal authority fails to explain why more boroughs did not resist intervention, and ignores the vast archive in the state papers confirming local collaboration with the government's project. The stories offered by Pickavance and the revisionists, with their focus on a moderate policy aiming to preserve the status quo, undersell the radicalism of the transformation wrought by the mass rechartering of the 1680s, probably the most significant state-building project of the reign of Charles II. Through dozens of new charters, Charles and his ministers brought corporations under closer royal scrutiny than ever before. Halliday, meanwhile, is so narrowly focused on the structural dynamics of partisan conflict within towns that he renders borough partisans as parochial figures, with local political horizons and interests. Partisan ideology, particularly ideology that extended beyond the boundaries of the municipality, is entirely ignored in his analysis; so too is any role national political crises might have played in shaping those ideologies. As a result, Hallidayian politics appear to be nothing more than a conflict between rival teams striving for local control. Yet such a view is inconsistent with the

[11] Halliday, *Dismembering the Body Politic*, xi-xii, 4, 189-192, 201-212, 223-234.

national circulation of information and political ideas that we now understand defined England in the 1680s.[12] None of the existing explanations, therefore, adequately explain the motivations that led thousands of people throughout England to surrender their municipal charters and comply with a radical program of corporate reform during the Tory Reaction.

I argue that widespread compliance with the government's new corporate policy during the Tory Reaction was largely the result of local engagement with national political discourse. While interpersonal rivalries and longstanding divisions played a role, in the early 1680s those parochial factors were viewed in the context of increasingly widespread fears of religious and political sedition and renewed civil war. At the core of local support for surrender was a national Tory conception of good government and its enemies. This was almost inevitable, as the question of whether to surrender municipal authority to the king necessarily focused debate on both the nature of royal power and the uses Charles II and his successors might make of local oversight. Citizens weighed these concerns alongside anxieties about what would happen if royal oversight over corporations was not secured – anxieties which grew more acute over the course of the Exclusion Crisis and Tory Reaction. The content and intensity of division within England's towns therefore changed dramatically in the early 1680s in ways that made Tory townsmen more willing to accept the loss of autonomy at the heart of the crown's new corporate policy. The debate was most voluminous in London, where advocates of surrender and defenders of the charter battled in the Guildhall, in the press, and in the streets to determine London's fate for nearly two years. In the rest of the country, support for rechartering came in two waves. Surrenders began in 1682, as Tories in a handful of England's municipalities sought to undermine the power of "Associators" and prevent Whig abuses of corporate liberties. Yet most

[12] See especially Grant Tapsell, *The Personal Rule of Charles II, 1681-1685* (Woodbridge: The Boydell Press, 2007), 92-158.

municipalities continued to hold off, wary of the radical change that reincorporation threatened. Two national political events in summer 1683 altered their calculations, opening the floodgates to a truly national rechartering program. The first was the king's victory in *Rex v. London*, which undermined the prospects for resisting surrender in corporations throughout England. The second was the revelation of the Rye House Plot, which served to demonstrate not only that Tory fears of renewed civil war were entirely justified, but to focus those fears on municipal control. Surrender therefore became a way to express support for the government established in church and state while undermining Whigs' ability to contest royal authority. National political dynamics and widespread perceptions of political crisis fueled surrenders during the Tory Reaction and made the crown's radical reworking of corporate government possible.

Tory Ideology and Ignoramus Juries

Following the dissolution of the Oxford Parliament on March 28, 1681, Charles II and his ministers drew up a *Declaration… Touching the Causes and Reasons that Moved [His Majesty] to Dissolve the Last Two Parliaments*. The *Declaration* was to be the opening salvo in the Tory Reaction's battle to alter the political sentiments of the nation. Charles's account painted his enemies as unreasonable zealots against royal authority. According to the *Declaration*, Charles had been receptive to the dangers posed by a popish successor and willing "to concur in any remedies that could be proposed for the security of the Protestant Religion," so long as they would "consist with preserving the succession." It was his rivals in parliament who had been unwilling to come to an agreement – for the Whigs, "no expedient would be entertained" short of exclusion. So uncompromising were the king's foes that they were willing to coerce their sovereign into compliance by withholding money and declaring royal creditors enemies of

parliaments. The *Declaration*'s key move came when it ascribed motives to the Whigs. The parliamentary opposition, Charles claimed, consisted of men of "old, beloved commonwealth principles," alongside allies of dissent intent on suspending the laws against nonconformists. Charles called on his loyal subjects to remember "the sad experience we have had of the late civil wars, that murdered our father, and ruined the monarchy." In their desire to cow Charles into submission, the exclusionists threatened to "establish another unnatural war." By connecting the Whigs to the upheavals of the 1640s and the political and religious tyranny of the 1650s, Charles undermined their claim to act in defense of the government established in church and state. "Who cannot but remember," closed the *Declaration*, "that religion, liberty, and property were all lost and gone, when the monarchy was shaken off, and could never be revived, till that was restored."[13]

Charles's *Declaration* introduced many of the themes which other authors would develop in the propaganda literature of the Tory Reaction: the unreasonableness of the Whig challenge to royal authority; the coziness between Whiggery and nonconformity; and the connection between the exclusionist challenge and the midcentury crisis. If Whigs were chiefly motivated by the threat of a Louis XIV style Catholic despotism being erected in England, Tories were motivated by memories of the anarchy of the Civil Wars and the tyranny of the Republic. By making such an identification, Tories turned the slogan of "popery and arbitrary government" back on their Whig rivals and cast them as the real enemies of the established government in church and state. Roger L'Estrange, the government's Licensor and a royalist during the civil wars, wrote that the Whig fears of popery and arbitrary government were "the same pretext and very foundation of the Rebellion in 41." He drew a parallel between the Parliamentary declarations in the early

[13] *His Majesty's Declaration to all his Loving Subjects, Touching the Causes and Reasons that moved him to Dissolve the Two Last Parliaments* (London: John Bill, Thomas Newcomb, and Henry Hills, 1681), 4-7, 9-10.

1640s and the Whig writings of Marvell and concluded "there is so near a resemblance betwixt them, that one egg is not liker another." "Is this not directly 41 again?" he concluded.[14] The return of Civil War and the overthrow of monarchy could only end in slavery and popery. The king, religion, the country, laws, liberty, and "the most excellent constitution of government in the whole world" were all endangered by "those people who pretend to be the great opposers of popery and arbitrary government" but in reality sought "rebellion and insurrections."[15] Thomas Flatman, the author of the Tory periodical *Heraclitus Ridens*, warned that "liberty and property," common Whig slogans, had been used to "take up with the people" in the 1640s and enabled the Rump Parliament to practice "arbitrary government." Would those "who made us slaves then… not do so again if it lay in their power?" Flatman asked.[16] Another author noted that as England had in 1640 "our Prynnes and Bastwicks, our Burtons, and Marshals" they now had "our men of Shaftesbury, our Jenkins's, our Ouerns." These were "the old republican monsters again" who had invaded "our properties and liberties" and destroyed "our religious and decent worshiping of God."[17] In 1681 Fabian Philips, a royalist who had published a panegyric of Charles I at the latter's execution, remembered with horror how the "ungrounded fears and jealousies" of popery and arbitrary power had brought upon England "a bloody and costly war, murder of their King and fellow subjects, rapine and spoil of each other."[18] Would England make the same mistake again?

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[14] Roger L'Estrange, *The Parallel, or, An Account of the Growth of Knavery under the Pretext of Arbitrary Government and Popery, with some Observations Upon a Pamphlet Entitled an Account of the Growth of Popery etc.* (London: Henry Brome, 1679), 2, 7, passim.
[15] *The Character of a Rebellion, and what England may Expect from One, or the Designs of Dissenters Examined by Reason, Experience, and the Laws and Statutes of the Realm* (London: Benjamin Tooke, 1681), 1.
[16] Thomas Flatman, *Heraclitus Ridens: Or, a Discourse between Jest and Earnest* #1 (2/8/1680[/1]).
[17] *Verbum Sapienti, or, One Word for the Charter, Reputation, and Honor of the City of London in an Address to the Lord Mayor, Court of Aldermen, and Commonalty Thereof* (London: T. Davies, 1682), 1.
[18] Fabian Philipps, *Ursa Major and Minor, or, A Sober and Impartial Enquiry into those Pretended Fears and Jealousies of Popery and Arbitrary Power with some Things Offered to Consideration Touching his Majesty's League Made with the King of France, upon Occasion of his Wars with Holland, and the United Provinces* (London:

A major source of the Tories' concerns surrounding the Whigs was their self-evident coziness with dissent. In the very first issue of his influential newspaper *Observator in Dialogue*, L'Estrange reminded his readers that the relaxing of the laws against dissent in the 1640s had "cost the life of a prince, the blood of two or three hundred thousand of his subjects, and a twenty-years rebellion."[19] The "zealous separatists," one Tory author warned the Duke of York, were so stubborn in their refusal to conform to the government of the church, that they were "the implacable enemies not only of your royal house and person but even of the monarchy itself."[20] "To be at the will of the Presbyterians, independents, and the whole herd of schismatics, as we were in the late rebellion" wrote Thomas Flatman, was "true slavery."[21] Besides the danger posed by dissenters, many Tories believed that the Whigs' purported great fear – that protestant infighting would only make them vulnerable to popery – was misplaced. A robust, united protestant church was the greatest security against popish incursions. Religious dissent only sparked infighting and weakened the protestant cause. Lord Chancellor Heneage Finch warned that "this church, with all its faults, is the purest… that any man hath had the honor to suffer for these 1500 years." Those who "oppose the beauty and order of our church, and quarrel at all the sober constitutions of it," he added, "do so directly promote the interests of the romanists that some have thought… that in many places the papists themselves help to enflame this blind zeal, and to make men irreconcilable."[22] It was thanks to "our many divisions in matters of religion and Church government" that many were carried "into the delusions of popery" agreed Fabian

HS, 1681), 1. For the pamphlet on Charles I, see Fabian Philips, *King Charles the First, No Man of Blood: But a Martyr for His People* (London: 1649).
[19] Roger L'Estrange, *Observator in Dialogue*, #1 (4/13/1681).
[20] John Nalson, *The Trial of King Charles I* (London: HC for Thomas Dring, 1684), "To his Royal Highness James Duke of York."
[21] Thomas Flatman, *Heraclitus Ridens: Or, a Discourse between Jest and Earnest* #3 (2/15/1680[/1).
[22] Heneage Finch, "On Indulgence to Dissenters" (ca. 1679-80) Leicestershire Record Office, DG7/P.P.10.

Philipps.[23] Perhaps the most famous Tory print of the Exclusion Crisis was L'Estrange's *The Committee, or, Popery in Masquerade*, a satire on Whigs that suggested that calls for protestant toleration were only a guise to let in popery through a back door.[24] The best way to check the growth of popery, Tories argued, was not through toleration of nonconformists, but through compelling dissenters to become once more "all true sons" of the Church of England.[25]

Figure 1: L'Estrange's print foregrounds different groups of protestant nonconformists and schismatics and shows them drawing strength from the pope (in the upper right) who whispers "courage, mes en fans" to his disciples.

The Tory message seems to have had appeal across the social orders. Publishers like Nathaniel Thompson churned out "loyal" songs and poems for the edification of "the misinformed rabble" who "began to hear a truth in a song… and were charmed into

[23] Philipps, *Ursa Major and Minor*, 2.
[24] [Roger L'Estrange], *The Committee, or, Popery in Masquerade* (London: Mary Clarke, for Henry Brome, 1680).
[25] *The Character of an Honest Man, Whether Styled Whig or Tory* (London: Randal Taylor, 1683), 11. This author claimed that Tories would gladly come to an accord with dissenters if the latter would simply "be reconciled to their prince and laws." But, the author writes, the dissenters "will not lay aside their madness" – there was nothing to be done but suppress.

obedience."[26] The *Whig Rampant* described how "Whigs of Commonwealth" in service to "the Good Old Cause" would level estates, undermine the universities, and triumph again as in the 1640s.[27] In answer, the Tories styled themselves as inheritors of the cavalier mantle, as loyal subjects and defenders of the established government in church and state. Another song that appealed explicitly to the lower orders, *The Loyal London Prentice*, linked the Whigs to the Presbyterians and Parliamentarians and invited each singer to identify as "a true born cavalier" like "my father was before." Like any loyal subject, these cavaliers scorned "your factious presbyter / and hate the thoughts of babel's whore" alike. Prints of the song sported a woodcut featuring a Cavalier toasting "the confusion of rumpery" and a presbyterian pining for "the good old cause."[28]

[26] Nathaniel Thompson, *A Choice Collection of 120 Loyal Songs, All of them Written Since the Two Late Plots, (viz) the Horrid Salamanca Plot in 1678, and the Fanatical Conspiracy in 1683* (London: N[athaniel] T[hompson], 1684), "To the Reader."; Nathaniel Thompson, *A Collection of 86 Loyal Poems, all of them Written Upon the Two Late Plots* (London: N.T., 1685).
[27] *The Whig's Rampant, or Exaltation, being a Pleasant New Song of 82* (London: P. Brooksby, 1682). English protestants commonly referred to the Roman Catholic Church as the "whore of Babylon."
[28] *The Loyal London Prentice: Being his Constant Resolution, to Hazard his Life and Fortune for his King, with his Defiance to Popery and Faction* (London: Richard Hill, 1681).

Figure 2: This woodcut illustration for "The Loyal London Prentice" features a cavalier proposing a toast "to the confusion of rumpery," while a Presbyterian pines for "the good old cause."

Tory crowds took to the streets in various places to register their animosity to the Whig threat. In March 1680, a bell-founder's apprentice named "Captain Tom" claimed to have rallied thousands of apprentices to "burn the rump" along with "effigies of the late tyrant Oliver Cromwell" to thwart what he described as an ongoing "Presbyterian plot."[29] In June 1681, a group of "the common people" in Derby carried "a puppet… dressed in the formal habit of Jack Presbyter" through the streets, "shouting and crying 'Remember Forty One!'" before committing it to a bonfire with cries of "No Papist, no presbyterian."[30] The following month, 18,000 apprentices signed a loyal address to the King, pledging to fight against the dissenters of the City if need be.[31] In 1682 "many thousands of… loyal young men and apprentices" turned out to a feast in the Merchant Tailors Hall, where they were joined by esteemed Tories such as the Dukes

[29] *Mercurius Civicus*, #2 (3/24/1679[/80]). This may have been the fabricated "meal-tub plot."
[30] Nathaniel Thompson, *The Loyal Protestant and True Domestic Intelligence* #30 (6/18/1681).
[31] "John Ellis to ?" (7/2/1681) *Calendar of the Manuscripts of the Marquess of Ormonde, K.P., Preserved at Kilkenny Castle. New Series* (London: His Majesty's Stationery Office, 1911), VI: 91. Hence *HMC Ormonde NS*.

of Albermarle and Ormond, and the Earls of Halifax, Craven, and Sunderland.[32] Tory crowds celebrated Charles II's birthday in 1682. At one bonfire "a great number of loyal gentlemen, and several hundreds of spectators" burned Shaftesbury's "Association," before toasting the King's health. At another, Whig and Tory crowds fought, offering rival cries of "A York!" and "A Monmouth!"[33] By this point letter-writers viewed these street fights as humdrum affairs, describing the brawls as "the usual conflicts."[34] Tory crowds offered "great acclamations and huzzas" at York's return to London, and expressed their "general joy" with bonfires and shouts.[35] A declaration of loyalty from the "young Free-Men and Apprentices of the City of London" condemning the Earl of Shaftesbury and the Association and pledging to venture their lives "in the defence of your sacred person… the rights of your lawful successors, and the true protestant religion as it is established by law" received about 12,000 signatures.[36] Apprentices and members of the lower orders even took to the press to express themselves. One "J.M." who signed himself "London Apprentice" wrote that he was "apt to hold the same opinion of a great number of judicious men, that… the late 41 rebels, and… the present [of] 81" were "vouchers of the same good old cause."[37] Another address from loyal apprentices held that in "the late times, … the giddy multitude" were "betrayed into insurrections by… specious pretences of contending for their own liberties and rights." The author vowed the apprentices would "never again be decoy'd

[32] Nathaniel Thompson, *Loyal Protestant and True Domestic Intelligence*, #192 (8/10/1682)
[33] Nathaniel Thompson, *Loyal Protestant and True Domestic Intelligence*, #162 (6/1/1682). The same shouting match also played out in November. "Christopher Philipson to Sir Daniel Fleming" (11/7/1682) Cumbria Archives Kendal, WDRY/5/2600; this is calendared *Historical Manuscripts Commission Twelfth Report, Appendix, Part VII. The Manuscripts of S.H. Le Fleming, Esq., of Rydal Hall* (London: Her Majesty's Stationery Office, 1890), 190.
[34] "Ben Rokeby to Sir John Reresby" (11/7/1682) West Yorkshire Archive Service, WY156/R/22/27.
[35] Nathaniel Thompson, *Loyal Protestant and True Domestic Intelligence*, #161 (5/30/1682).
[36] *London Gazette* #1738 (7/13-17/1682). Evidently Thomas Deane, the presenter of this address, suffered reprisals: "Thomas Deane to the King" (1682) SP 29/421/2, f 82r.
[37] J.M. London Apprentice, *A Vindication of the Loyal London-Apprentices Against the False and Malicious Aspersions of Richard Janeway in his Lying Mercury Published June 14* (London: 1681), 1-2.

out of duty to our sovereign."[38] The Tory concerns about the return of Civil War and the overthrow of monarchy and the established church held broad appeal in the early years of the Reaction.

These fears gained much of their verisimilitude from the conduct of England's Whig-dominated corporations, especially London, in the early 1680s. Whigs were unsuccessful at passing most of their legislative agenda in parliament, but their actions in municipal corporations provided an opportunity to examine their uses of power. One of the most frequent abuses of corporate power, from the perspective of England's Tories, was the failure of Whigs to enforce the laws against dissent. One Tory who proposed a Certificate for Conformity justified it on the grounds that seeing "so many dissenters from the established religion in honorable and profitable places in his Majesty's service, especially in and about the City of London" was a thing "grievous to his Majesty's good subjects," as well as "prejudicial to his … true interest, and the government."[39] Unsurprisingly, a city in which places of trust were exercised by nonconformists rarely enforced the laws against conventicles. Captain George Hilton, who sought to prosecute dissenters in the City, suggested that it was the "security and secrecy" the City afforded that caused "great numbers of sectaries and disloyal persons to repair" there, "to carry on their wicked imaginations against his Majesty's sacred person and government."[40] Calls to enforce the laws against dissent were frequent in Tory writing. One commentator urged "all loyal-hearted citizens" to "put the laws in execution against all seditious conventicles and unlawful assemblies" and so quiet "those nurseries of treason and rebellion."[41] Henry Crispe, the Tory

[38] *Vox Juvenilis: Or, the Loyal Apprentice's Vindication of the Design and Promoters of their Late Humble Address to his Majesty* (London: Charles Read, 1681), 1, 4.
[39] "Draft of a Certificate for Conformists and Other Proposals" (1682) TNA, SP 29/421/2, f 47r.
[40] "Captain George Hilton to Secretary Jenkins" (1682) TNA, SP 29/421/2, f 88r.
[41] *Verbum Sapienti*, 2.

Common Serjeant of London, was anxious that "our justices, and especially my Lord Mayor might be a little quickened in the execution of the laws against conventicles, it being certain that as long as those nurseries of rebellion are kept open we shall have designs against monarchy."[42] That dissenters had captured the most powerful corporation in the nation seemed to provide compelling evidence that Whigs were not serious about preserving the laws against seditious fanatics.

Perhaps no abuse of corporate power did more to win adherents to the Tory cause in 1681 than the use of partisan grand juries to shield Whigs from royal justice.[43] Tory polemicists incessantly highlighted these juries when they accused Whigs of contending with the king and installing arbitrary government. L'Estrange lambasted the Whigs' hypocrisy in bringing in a bill *ignoramus* against law and reason whenever they believed "the protestant interest depended upon it." Such men, L'Estrange wrote, were "so solicitous for fear the papists should destroy the king" that they would "leap all the bars of law and religion, to destroy him themselves." "No punishment… nor any censure could be too severe" for a jury that would perjure itself and refuse to find cause to go to trial on the testimony of numerous competent witnesses in a treason case.[44] Nathaniel Thompson offered a joking *Vindication* of Colledge's jury, claiming that they had found the bill *ignoramus* in order to "give his Majesty warning" that a packed petty-jury would have disloyally acquitted him.[45] The use of grand juries to protect accused traitors undermined Whigs' self-fashioning as champions of law and religion and defenders of the established government. The Anglican Bishop Laurence Womock, an intensely partisan critic of dissent,

[42] "Henry Crispe to Secretary Jenkins" (3/10/1682[/3]) TNA, SP 29/422, f 260r-v.
[43] As discussed in the previous chapter, grand juries were empaneled by sheriffs (in many corporations locally-elected positions). They determined whether there was sufficient evidence of a crime to bring a case to trial. A verdict of "ignoramus" answered that question in the negative.
[44] *Observator in Dialogue* #33 (7/13/1681), #34 (7/16/1681), #88 (1/11/1681[/2]).
[45] *A Modest Vindication of the Proceedings of the Late Grand-Jury at the Old Baily, who returned the Bill against Stephen Colledge, Ignoramus* (London: N. Thompson, 1681), 1-2.

claimed that nonconformist efforts at rebellion would be "but the effects of hot-heads, and intemperate passions" without control over juries. *Ignoramus* juries were "not only a symptom of a distempered state, but a perfect diagnostic of some design" of a plot between the jury and the parties indicted. The spate of *ignoramus* juries in 1681, Womock and others concluded, proceeded from wicked dispositions and from a design to foment sedition.[46] The Whigs' subversion of justice posed the greatest threat to the established government in church and state.

Publishers were at pains to make *ignoramus* juries a target for popular antipathy. A bawdy satire claimed the Whig Stephen Colledge was carrying on an affair with the Whig printer Richard Janeway's wife, and had Colledge express that "for a few to be perjured for the benefit of the nation, and true protestancy, is… a piece of service becoming the Godly party, and the favorers of the Good Old Cause."[47] Numerous Tory songs targeted at the lower orders centered on the hypocrisy and danger of *ignoramus* juries. "Ignoramus Justice" recounted the story of Shaftesbury's *ignoramus* in November 1681, describing how "this great lord of high renown" was "cleared by Ignoramus-sway / for betraying the Church and King in a day," sparking "bonfires made with great applause / and all to maintain the Good Old Cause."[48] Another song entitled "Ignoramus" described how "Since Reformation / with Whig's in Fashion / There's neither Equity nor justice in the Nation. / Against their Furies / There no such cure is / as lately hath been wrought by Ignoramus-Juries."[49] "The Ignoramus Ballad" applauded the "Honester men" of Oxford who gave "the rout to all Ignoramus" by finding the bill against Colledge true

[46] [Laurence Womock], *Billa Vera, or, the Arraignment of Ignoramus* (London: Printed for Robert Clavel, 1682), 2-9; Thomas Flatman, *Heraclitus Ridens* #75 (7/4/1682).
[47] *A Letter Written from the Town by Mr. Stephen Colledge (The Protestant-Joyner) to Dick Janeway's Wife* (London: R.J., 1681), 1-2.
[48] Thompson, *A Choice Collection of 120 Loyal Songs*, 40.
[49] *Ignoramus: An Excellent New Song to the Tune of, Lay by your Pleading, Law Lies a Bleeding* (London: 1681). This song was answered by a Whig one, entitled *A New Ignoramus: Being the Second New Song, to the same Old Tune, Law Lyes a Bleeding* (London: Printed for Charles Leigh, 1681).

and enabling his execution later in 1681.[50] The *ignoramus* jury was a focus of high and low Tory propaganda alike.[51]

By 1682 the constant harping on *ignoramus* in the Tory press had made the "ignoramus jury man" a byword for Whig excesses and usurpations. L'Estrange described Whigs getting drunk "with joy" on "an ignoramus night" as though it was a holiday.[52] He likewise claimed that on the night of Shaftesbury's *ignoramus* he had seen Titus Oates marching through the streets cheering "An Ignoramus!" and encouraging his fellow Whigs to do likewise.[53] Thompson described one Whig falsehood as "as great a lie as ever was vent by an ignoramus jury man."[54] One Whig pamphlet, a defense of *ignoramus* juries, nonetheless ably summed up the Tory view of the practice in a dialogue between Indifference and "Monsieur Prejudice." Under the Whigs, justice was administered "basely, roguishly, factiously, Whiggishly [and] not according to evidence" because "there are a sort of folks called *Ignoramus-Men*, that refuse sometimes to find bills, though there be positive oaths before them."[55] Such men, Tories argued, abused a public trust for the good government of the city and usurped the law, in effect committing rebellion against the sovereign. The strength and appeal of Tory propaganda in the early 1680s concerning the problems of dissent and the threat of "41 Come Again" was largely built on the reality of perceived Whig misdeeds in corporations. When Secretary of State Leoline Jenkins was told "tis now come to a civil war, not with the sword, but law" this was precisely what his correspondent

[50] *The Ignoramus Ballad: To the Tune of, Let Oliver Now be Forgotten* ([London]: Printed for N.T., 1681).
[51] The debates over *ignoramus* juries to some extent built on earlier legal debates about jury independence and nullification (or "perverse verdicts"), a practice that had only received legal sanction in 1670 in Bushel's Case. That Bushel's Case itself spun out of a case in which a jury refused to convict two Quaker conventiclers probably influenced Tory hostility to nullification.
[52] L'Estrange, *Observator in Dialogue*, #86 (1/4/1681[/2]).
[53] "Narrative by Roger L'Estrange of What Happened in the City the Night Before" (11/25/1681) TNA, SP 29/417, f 255r.
[54] Thompson, *Loyal Protestant and True Domestic Intelligence*, #172 (6/24/1682).
[55] *Ignoramus Vindicated, in a Dialogue between Prejudice and Indifference* (London: Printed for William Inghall the Elder, 1681), 1.

warned of – Whig usurpation and the abuse of corporate powers to promote the Good Old Cause.[56]

Gaining control of the shrievalty of Middlesex offered an opportunity to prevent future *ignoramus* juries and reclaim the administration of justice from the faction. The stage was set for a dramatic conflict at the shrieval election in July 1682. The city's Whigs were eager to retain their monopoly on jury selection. A number of London Whigs at the Queen's Arms club in London, including "Captain Cary (an old Oliverian)" expressed that their "principal care was to have always sheriff in the City of their own friends."[57] A conventicle held in Haberdasher's Hall likewise "kept a special fast and prayed for the election of sheriffs."[58] The Whigs proved their commitment to the cause in their many pamphlets defending the City's – that is, the Whigs' – right to elect sheriffs of their own choosing.[59] As Thomas Papillon, one of the Whig candidates in 1682 put it, the Sheriffs were "a great matter… being to return the juries; and it was of great moment to have good and indifferent juries."[60] Papillion and another member of the Grand Jury that had returned Shaftesbury's *ignoramus*, John DuBois, ran for sheriff as a Whig slate.

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[56] "Private Advice to Jenkins about Brown, Clerk of the Cooper's Company" (Nov. 1681) TNA, SP 29/417, f 407r.
[57] "The Information on Oath of Samuel Oates, Jr." (6/8/1682) TNA, SP 29/419, f 110r. Oates added that the Queen's Arms was often called "Sheriff Bethel's Club." Ibid., f 110v.
[58] "List of 30 Places in London, Where Conventicles are Held" (1682) TNA, SP 29/421/2, f 51r.
[59] See for instance: *A Modest Enquiry Concerning the Election of the Sheriffs of London and the Right of Choosing Demonstrated to Belong Unto and to Have Been Always Adjudged to Reside in the Lord Mayor, The Court of Aldermen, and the Common-Hall* (London: Printed for Henry Mead, 1682); *The Rights of the City Farther Unfolded and the Manifold Miscarriages of my Lord Mayor, as well as the Punishments he hath rendred himself Obnoxious Unto, for his Misbehavior in relation to the Present Election of Sheriffs, Displayed and Laid Open* (London: J. Johnson, 1682); *The Priviledg and Right of the Free-Men of London, to Chuse their Own Sheriffs and the Right of the Sheriffs to Manage, Conduct, and Declare the Election, Father Cleared, Re-Inforced, and Vindicated* (London: J. Johnson, 1682); *Reflections on the City-Charter, and Writ of Quo Warranto: Together with a Vindication of the Late Sheriffs and Juries* (London: E. Smith, 1682); *The Lord Mayor of London's Vindication, being an Answer to a Pamphlet Intitled, A Brief Collection out of the Records of the City, Touching the Election of Sheriffs for the City of London, and the County of Middlesex, &c* (London: E. Smith).
[60] Thomas Papillon "Discourse with Sir John Moore, Lord Mayor, About Drinking to a Sheriff" (4/29/1682) in AFW Papillon, Ed., *Memoirs of Thomas Papillon of London, Merchant (1623-1702)* (Reading: Joseph J. Beecroft, 1887), 208.

The Crown was equally concerned to have "loyal" men hold the office. To ensure that a loyal sheriff would be selected, Tories argued in favor of a traditional custom that one of the sheriffs should be selected by the Lord Mayor (at this point the Tory John Moore) drinking a toast to him. As early as April 1682 royal officials reminded Moore to exercise this customary right to select a sheriff. On April 3, after consulting with Charles, the Earl of Conway wrote that Jenkins and Lord Hyde should "prepare my Lord Mayor for such a [candidate] as the King shall recommend to him."[61] Charles and his ministers selected Dudley North, the recently returned Levant Company merchant and brother of Lord Chief Justice Francis North, alongside Mr. Ralph Box. Legal precedents for mayoral nomination were drawn up by the city's Tory recorder, George Jeffreys, and published.[62] One author, reflecting on the recent Whig activities, urged the necessity of "keeping up the honor and good reputation of the City with his majesty" for which it was necessary to elect "such public officers (especially sheriffs and common-council-men) as will administer justice impartially in our city to all men."[63] The author of the Tory periodical *Heraclitus Ridens* skewered the Whigs for being "fearful of a loyal sheriff" but cautioned loyal readers that they would "puff and sweat" to prevent the election of one.[64] A newsletter from this period recorded how as the election for Sheriffs was looming the Court of the Lieutenancy "have ordered that 4 companies of trained bands be in arms… to keep the peace at the election, for there will be great striving for votes."[65] Indeed there would be.

On the date of the election the Hustings at the Guildhall were "filled with people." When the Common Crier called for "the confirmation of Dudley North" he was shouted down with

[61] "The Earl of Conway to Secretary Jenkins" (4/3/1682) TNA, SP 29/418, f 102r.
[62] *A Brief Collection out of the Records of the City, Touching Elections of the Sheriffs of London and the County of Middlesex* (London: S. Roycroft, 1682).
[63] *Verbum Sapienti*, 2.
[64] Thomas Flatman, *Heraclitus Ridens* #69 (5/23/1682).
[65] "Newsletter to Alice Fernall, Chester" (6/23/1682) TNA, SP 29/419, f 138r.

cries of "No Confirmation! No Confirmation!" The two managers for the election – the current sheriffs, the Whigs Thomas Pilkington and Samuel Shute – complied, and allegedly "denied several people to poll for confirmation of Mr. North." Instead, they listened to the calls of other freemen that a poll be held from the four candidates. When the Jeffreys told the voters that "they ought to choose men that were loyal and firm to the government" he was hissed and jeered into silence. In response to these irregular proceedings, Lord Mayor Moore "ordered the Sheriffs to shut up the books because the poll was irregular, of which he had many complaints." Eyewitnesses later swore that as Moore was leaving the court he, along with many of the Tory aldermen, was "crowded and assaulted, his hat beaten off and himself born down by the crowd and in great danger."[66] Following the riotous proceedings, North and Sir Peter Rich, another Tory candidate, were declared the winners.

The riot at the 1682 shrieval election was a powerful warning of the lengths to which Whiggish rebels would go to avoid royal oversight and loyal government. The poll had been carried on "in such a tumultuous, riotous way, that the peace was broken," wrote Jenkins angrily when he learned of the proceedings. The rioters had aimed "to set up two ignoramus jury-men for sheriffs; to keep the same spirit of sedition in the city that hath labored… to overturn the monarchy."[67] Tory printers dutifully condemned the riot and celebrated the deliverance of the city and the nation from proponents of the "good old cause" by the choice of "two loyal worthies."[68] News of the riots spread throughout England, where it worked to confirm the Tories'

[66] "Narrative of the Proceedings at Guildhall on that Day" (6/24/1682) TNA, SP 29/419, f 142r-143v. In fact, this eyewitness appears to have been wrong – according to Moore, although "in the great crowd his hat was lost, yet it was without harm or disrespect." "Notes by Secretary Jenkins" (6/25/1682) TNA, SP 29/419, f 147r.
[67] "Notes by Secretary Jenkins" (6/24/1682) TNA, SP 29/419, f 145v. Both of the Whig candidates, Thomas Papillon and John DuBois, had been members of Shaftesbury's *ignoramus* jury.
[68] *To the Right Honorable Sir John Moore, Kt., Lord Mayor of the City of London, and the Right Worshipful the Aldermen his Brethren, the Humble Petition and Address of the Citizens of London, whose Names are Here Subscribed, for, and on the Behalf of Themselves, and all other Loyal Citizens of London* (London: Benjamin Tooke, 1682), 1; *The Whig Caball* (London: Printed for Walter Davis, 1682); *Loyalty Triumphant, or, The Confirmation of*

allegation that Whigs were so determined to cling to power and pack their juries that the prospect of a loyal sheriff supported by the king sent them rushing towards rebellion. Indeed, the struggles over *ignoramus* juries and the shrievalty of Middlesex seem to have won many to the Tory perspective by demonstrating the plausibility of the connection between the Whigs and the midcentury rebels. While the nation had returned an overwhelmingly Whiggish parliament in early 1681, support for the Whigs had waned considerably throughout 1682 and 1683. As early as February 1682, only a few months after Shaftesbury's *ignoramus*, L'Estrange had been delighted to report a "wonderful change of opinion" in the kingdom, fueled by "contemplation and experience."[69] In April, Jenkins observed that in London "the factious party… do rather lose than get ground," a trend that would continue throughout the year.[70] By March 1683, the Whig Narcissus Luttrell reported that "the tempers of men are now much altered to what they were within this twelvemonth, most now seeming Tories."[71] The conflict over the magistracy in London had helped to facilitate this change, lending verisimilitude to the Tory talking-points and setting the stage for the national debate over the surrender of municipal charters.

The Debate over Surrender in London

The first city to come under pressure from the crown's new corporate policy was London, which received notice of an information in the nature of a *Quo Warranto* alleging that the city

Mr. North and Mr. Rich, Sheriffs of London and Middlesex as it was Sung at the Sheriffs-Feast at Guild Hall, Saturday September 30, 1682 (London: Nathaniel Thompson, 1682); *The Loyal Sheriffs of London and Middlesex Upon their Election: To the Tune of, Now at Last the Riddle is Expounded* (London: Printed for Nathaniel Thompson, 1682).

[69] Roger L'Estrange, *Observator in Dialogue* #95 (2/1/1681[/2]).

[70] "Ormond to Sir L. Jenkins" (4/1/1682) *HMC Ormonde NS*, VI: 356. Here Ormond thanks Jenkins for sending him this observation. "Sir John Lowther to Sir Daniel Fleming" (10/31/1682) Cumbria Archives – Kendal Branch, WDRY/5, #2596.

[71] Narcissus Luttrell, *A Brief Historical Relation of State Affairs from September 1678 to April 1714* (Oxford: Oxford University Press), I: 252 (March 1682/3).

"used, and yet do claim to have and use, without any lawful warrant" the liberty and privilege of being "a body corporate and politic" on December 21, 1681. From the beginning, the *Quo Warranto* "occasioned much discourse" in the city.[72] For almost two years the citizens and inhabitants of London debated the merits of the case and whether to submit to the crown. Their debate anticipated many of the arguments over surrender in other corporations and generated a uniquely voluminous and widely-circulated corpus of printed material that influenced the course of events in the other corporations of England's empire. We thus begin our examination of the politics of charter surrender in England's municipal corporations with its most prominent case, before turning to examine the campaign to reform provincial boroughs.

From the beginning, the Common Council was divided on how to respond to the *Quo Warranto*. On January 18, 1682, they passed a "unanimous resolution of this court and of all the members… to maintain the liberties, franchises, and privileges of this city." But the committee appointed to advise with legal counsel on the best course for a defense consisted almost entirely of Whigs.[73] The Tories had reportedly "left the defense… against the *Quo Warranto* to the other party."[74] Rumors swirled that "the city intends… to submit themselves to the king," but Narcissus Luttrell observed that "the committee… meet every day and consult with their council, omitting nothing that may contribute to defend their charter."[75] In early April the Tory Serjeant-of-London Henry Crispe reported that his partisan allies on the council "desire[d] the surrender" of the charter to the crown, but that he "fear[ed] the Whigs may delay it."[76] On May 19,

[72] Luttrell, *Brief Historical Relation of State Affairs*, I: 153 (12/21-28/1681); Richard Janeway, *Impartial Protestant Mercury* #70 (12/20-23/1681).
[73] "Common Council meeting" (1/18/1681[/2]) COL/CC/01/01/47, ff 281v-282r. The Whigs included Sir Robert Clayton, Sir Patient Ward, Henry Cornish, Thomas Player, John DuBois, and William Ashurst.
[74] "Jenkins to Lord Bishop of Exeter" (1/19/1681[/2]) TNA, SP 44/68, p 12.
[75] "Newdigate Newsletter" (1/28/1681[/2]) FSL, LC 1178; Luttrell, *Brief Historical Relation of State Affairs*, I: 161 (1/30/1681[/2]).
[76] "Notes by Secretary Jenkins about the City" (4/2/1682) TNA, SP 29/418, f 100r.

London's legal counselors, including Recorder George Treby, requested additional time for the city to plead, observing that "it requires a great deal of time and industry to make inquiry into this matter, which concerns the foundations of the city."[77] The counsel for the king insisted that additional time was not necessary. Attorney General Robert Sawyer expressed his befuddlement: "what they would make such a search for truly I cannot tell, unless they would search for some sort of an independent power, whereby they can set up for a commonwealth" in which case "they may look until Dommes Day."[78] On June 13, after months of delays, the city entered its plea that despite the charges laid out in the *Quo Warranto* the "citizens of the city are, and… have been, a body corporate and politic."[79] Over the ensuing year, London's attorneys would make an ill-fated effort to defend their corporate privileges before the justices of the Court of King's Bench.[80]

London's decision to answer the information in court inaugurated an intense period of public discussion surrounding the *Quo Warranto* and the rights of the corporation. Publishers and writers engaged in this discussion in several ways and across multiple registers. The first way, and perhaps the most obvious, was to provide transcripts of the documents at issue in the case. In 1682 the Whig printer Langley Curtiss published *The Priviledges of the Citizens of London*, a 76-page translation of all the charters the city had received since the conquest, so "that every one, both rich and poor" would know the city's liberties "upon the occasion of the *Quo Warranto*."[81]

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[77] "Rex v. London Motion" (5/19/1682) Bodleian, MS Rawl. C. 740, p3. They likewise cited the death of Sir William Jones, a prominent Whig politician and law officer who had been advising the committee on the case, as a reason for additional time. "Rex v. London Motion" (5/19/1682) Bodleian, MS Rawl. C. 740, p7; "Newdigate Newsletter" (5/20/1682) FSL, LC 1219.

[78] "Rex v. London Motion" (5/19/1682) Bodleian, MS Rawl. C. 740, p13. On learning of the information against the city, Roger Morrice observed that "suits of this nature are sometimes 10 or 20 or 40 years before any considerable process go[es] out upon them." Mark Goldie, Ed. *The Entring Book of Roger Morrice* (Woodbridge: The Boydell Press, 2007), II: 298.

[79] Luttrell, *Brief Historical Relation of State Affairs*, I: 193 (6/13/1682). The plea is in *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors, from the Earliest Period to the Present Time* (London: T.C. Hansard, 1810), VIII: 1041-1050. Hence *ST*.

[80] See the previous chapter.

[81] *The Priviledges of the Citizens of London: contained in the Charters, granted to them by the Several Kings of this Realm, and Confirmed by Sundry Parliaments. Comprehending the Whole Charter, only Words of Form Left out.*

As the trial progressed over the course of 1682 and 1683, publishers dutifully translated and printed each new plea, replication and argument for the edification of their readers.[82] These publications made the basic arguments on each side in the case accessible to a much broader audience. Manuscript newsletters performed a similar function, keeping readers throughout England and abroad informed of the substance of the arguments offered by each side in *Rex v. London*.[83] It is not always possible to know what uses readers made of these records of the trial, but it is clear that a lively market existed for detailed information about the course of the London case, and it seems likely that these pamphlets enabled partisans across the country to relitigate the case in coffee-houses and taverns.

In addition to innumerable private debates, these texts provided material for treatises, histories, and works of political theory that argued over the nature of London's privileges and the proper relationship between corporations and royal authority. In their public arguments concerning the charter, Whigs confronted the difficulty of defending corporate autonomy and attacking the *Quo Warranto* without challenging royal authority or attacking the king. They did so, in the first instance, by differentiating between the powers, privileges, and customs ancient corporations such as London possessed, and the powers that monarchs were able to grant. In the

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Now Seasonably Published for General Information, Upon the Occasion of the Quo Warranto against the said City. (London: Langley Curtiss, 1682), "To the Reader" and title. Curtiss's pamphlet was a reprint of one published in 1680 entitled *The Abridgement of the Charter of the City of London: Being every Free-Man's Privilege… Of Great Use and Benefit to all Citizens of the said City in General, and Other Persons, being Foreign Merchants* (London: 1680). Although the interior was unchanged, Curtiss's title indicates that the occasion for the second printing was the debate over the *Quo Warranto*. Attorney General Robert Sawyer suspected that the city had ordered its patents printed to help drum up popular support. "Rex v. London Motion" (5/19/1682) Bodleian, MS Rawl. C. 740, p17, 39.

[82] *The City of London's Plea to the Quo Warranto* (London: Randal Taylor, 1682); *The Replication to the City of London's Plea to the Quo Warranto* (London: Benjamin Tooke, 1682); *The City of London's Rejoinder to Mr. Attorney General's Replication in the Quo Warranto* (London: Langley Curtiss, 1682); *The Sur-Rejoinder of Mr. Attorney General to the Rejoinder Made on the Behalf of the Charter of London* (London: Samuel Mearne, 1682).

[83] "Newdigate Newsletters" FSL, LC 1289 (10/19/1682), LC 1335 (2/8/1682[/3]), LC 1370 (5/1/1683). "Newsletter to Sir Francis Radcliffe, Dilston" (1/14/1681[/2]) in F.H. Blackburne Daniel, Ed., *Calendar of State Papers, Domestic Series. January 1st to December 31st, 1682. Preserved in the Public Record Office* (London: His Majesty's Stationery Office, 1932), 26.

case of "ancient cities," wrote one author, only a fool could think they were "made corporations by any charters of our British, Saxon, or Norman kings, or that they received all their privileges from the sole grace, favor, and bounty of them."[84] Indeed, "such privileges as the crown can grant" were "infinitely inferior to the customs, franchises, rights and government" the city possessed. It followed from this that if the city's corporation should be dissolved by the *Quo Warranto*, it would be beyond the power of the king to restore it to its former powers. "The ancient and excellent composition of customs, laws, and liberties in this city, made by the wisdom and approved experience of so many ages, confirmed by 23 kings and 33 parliaments, must forever be broken to pieces, with the loss of its charter"[85] This allowed the Whigs to claim a motivation for preserving charter privileges besides resistance to monarchy. The citizens of London, suggested one author, had good reason to imitate the ancient philosopher Diogenes "whose generous freedom was commended by the great Alexander himself, which mighty monarch interposing between him and the Sun [said] 'Stand aside… and deprive me not of that which thou canst not impart unto me,' meaning the benign influences of its light and heat."[86] London's corporate rights did not proceed solely from the bounty of monarchs, but from the accumulated customs and wisdom of the ages, recognized, validated, and augmented by centuries of kings and parliaments. Resisting the *Quo Warranto* was not a snub to sovereign power, but a just valuation of those privileges that even sovereigns could not grant.

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[84] *The Rights and Privileges of the City of London, Proved from Prescription, Charters, and Acts of Parliament also the Coronation Oaths of Several of the Kings of England, together with some Arguments to Enforce on all Great Men their Duty of Acting Agreeable Thereunto, and to the Known Laws of the Kingdom* (London: J. Johnson, 1682), 4.

[85] *The City of London's Present Danger* (London: Francis Smith, 1682), 1, 3-4. This pamphlet was reprinted in 1683, seemingly to discourage the city from surrendering its charter. *The Citizens Loss When the Charter of London is Forfeited or Given Up* (London: Francis Smith, 1683).

[86] *Reflections on the City-Charter, and Writ of Quo Warranto* (London: E. Smith, 1682), 16.

This should not be a cause for alarm, added London's defenders. The city's autonomy, particularly its ancient right of electing its own officers, made it a better guardian of the public welfare than it might otherwise be. The Whig attorney Thomas Hunt's *Defence of the Charter and Municipal Rights of the City of London* began with an account of the origins of corporate self-government. Hunt suggested that kings had "either allowed, or given authority" to municipalities "to choose their own officers and magistrates, and to govern themselves by their own laws" because monarchs "did not trust themselves, nor their courtiers' nominations or recommendations to make magistrates." Instead, they reposed that power in the citizens, on the view that it was "hardly possible, that mankind should miscarry in their own hands."[87] This autonomy was part of the city's strength, the Whigs argued, and had made it a mighty bulwark against the encroachments of popery and arbitrary government in the years of the plot. London, wrote one defender, was "the impregnable bulwark of the best religion; the glory of the most truly generous and easily governable nation." This was largely, the author wrote, thanks to the "discretion and integrity" of the elected sheriffs and juries, who resolved to "rake the popish plot out of its ashes." The citizens' "undoubted right of choosing sheriffs" was an "essential and necessary… branch of [the] charter" and one upon which "all that is dear unto us depends" including "our lives, liberties, estates… and in some respects our religion also."[88] Hunt argued that the "charters, and governments of municipal cities and towns" were "the greatest defenses against popery." Why could royal government not serve the turn as well? Hunt answered by drawing upon the charters granted to a handful of English municipalities in 1682 and early 1683. There was, he wrote, "a new form of corporations" in which "all officers and magistrates… must

[87] Thomas Hunt, *A Defence of the Charter, and Municipal Rights of the City of London, and the Rights of the Other Municipal Cities and Towns of England, directed to the Citizens of London* (London: Richard Baldwin, 1683), 1-3.
[88] *Reflections on the City-Charter, and Writ of Quo Warranto*, 5, 13, 25, 27-8, 31.

be made at the Courtiers' nomination… and the succession [of officeholders] such only as shall be by them approved." By these means "it will be in the power of a popish successor, to put the government of all corporated towns in England into the hands of papists" and "to extirpate the reformed religion established by law."[89] Should the charters of London and other municipalities succumb to absolute royal domination, the kingdom could easily fall to popery.

In view of these consequences, Whigs had little difficulty identifying the conspirators against the city's liberties. The disagreement between Charles and his city was the work of "manifest declared papists" and "masquerade protestants," the "friends and correspondents with that party" to spread allegations that in London "the king could have no justice," and so render "our city, sheriffs, and juries" suspect. The papists had created "misunderstandings between protestants of different apprehensions," giving rise to "irreconcilable divisions and feuds" that were "likely to weaken the protestant interest" by toppling existing checks on popery like the charter of London.[90] The papists had so excited Tory fears that they had lost all sense of perspective. "So transported are some of you grown with the humor of opposition… against some that are called dissenter" wrote Thomas Hunt, "that you are become eager for the destroying of your charter, because these dissenters have concurred with the majority [of citizens] in defending it."[91] "Tories," wrote one author in a manuscript intended to be widely circulated, were so "mad-blind… as to run themselves out of freedom into slavery."[92] Citizens owed their loyalty to their city, and indeed had sworn upon oath to maintain "the franchises and customs thereof." Yet thanks to the machinations of papists, a group of "dissolute angry citizens"

[89] Hunt, *A Defence of the Charter, and Municipal Rights of the City of London*, 4-5, 7, 13.
[90] *Reflections on the City-Charter, and Writ of Quo Warranto*, 5, 8, 10-11.
[91] *Reflections on the City-Charter, and Writ of Quo Warranto*, 10-11; Hunt, *A Defence of the Charter, and Municipal Rights of the City of London*, 11, 18.
[92] "Memoirs for the Next Common Council" (early 1683) TNA, SP 29/424, f 169r-v.

had become "divided… into parties and factions, to destroy their immemorial and chartered rights." It was these Tories, motivated by their irrational fear of dissenters, and not the sheriffs, jurymen, and citizens of London, who were "the real disturbers of the king's peace, and the violators of those most admirable laws."[93]

As the Tories saw it, the Whigs' domination of the city government was a threat to the security of the Crown. It was the "caballing and clubbing to promote disaffected persons to the government of this city" that was "the true cause why his majesty had called in our charter" wrote one Tory pamphleteer. The *Quo Warranto* was "a scourge for our miscarriages and insolencies against his government."[94] "His Majesty's crown and dignity," added L'Estrange, were in dire danger without the *Quo Warranto*.[95] Another added that "his Majesty hath just cause to suspect and distrust the fidelity, loyalty and allegiance of the said City" and that this suspicion justified his intervening.[96] The Whig leaders of the City had been "seditious… continually murmuring and complaining, finding fault with government and governors, which was the first step to sedition, war, and blood, and destruction of the King."[97] According to the Tory physician John Northleigh, the City was already "in [a] state of war with its sovereign."[98] If the King and his government would be preserved, claimed the Tories, the charter of London must cease to be the tool of faction and dissent, and be reformed as an ally of monarchy. "The great end of the laws of the Kingdom, and of all charters and privileges at any time granted to subjects… is not to

[93] *The Rights and Priviledges of the City of London, Proved from Prescription, Charters, and Acts of Parliament*, 2-3.
[94] *Verbum Sapienti*, 1-2.
[95] [Roger L'Estrange], *The Lawyer Outlaw'd: or A brief answer to Mr. Hunts Defence of the Charter. With some useful Remarks on the Commons Proceedings in the Last Parliament at Westminster. In a Letter to a Friend* (London: N.T., 1683), 4.
[96] *The Arraignment of Coordinate Power* (London: T[homas] Hunt, 1683), 8. This Thomas Hunt is certainly not the same one who penned the quasi-republican defence of the City.
[97] *The Character of an Honest Man, Whether Styled Whig or Tory*, 12.
[98] John Northleigh, *A Gentle Reflection on the Modest Account, and a Vindication of the Loyal Abhorrers from the Calumnies of a Factious Pen, by the Author of the Parallel* (London: Benjamin Tooke, 1682), 3-4.

weaken the hands of their prince, but for his support, and for the promoting of order, government, and public peace."[99] When the Whigs used the City's corporate autonomy to resist their lawful sovereign, they effectively declared rebellion. For the good of the King, the charter must be surrendered.

Yet it was not mere sycophancy that compelled the Tories to urge the *Quo Warranto*. The essence of the Tory position was that "the interests of his Majesty and his subjects" were "common and inseparable."[100] Tory journalists and political commentators stressed that London's Whigs had to be stopped for the good of the subject as well as the Crown. "It was high time for" the King to take in London's charter, wrote one pamphleteer, when the Whigs "pack juries to acquit treason" and "condemn, censure, and fine" those who oppose them.[101] Roger L'Estrange took up the same theme, highlighting the danger that Whig dominance posed to the citizens of the city. Besides the *Quo Warranto*, there was "no other way to rescue the Government" from "the faction," nor to "secure his Majesty's crown and dignity, and the lives of his good subjects, from packed juries, and perjured ignoramus's."[102] Another added that Whig officers in the city "biased in their persuasions… who have great influence in the administration and proceedings of the law" had "injured and damnified" the "greatest number of the citizens… and the whole nation besides" and turned "the administration of justice into ridicule."[103] "Perverting the justice of the nation" endangered the lives and liberties of all the King's loyal subjects.[104] It was not just the "crown and government" but "all public peace and safety" that prompted Tories to justify the surrender.[105] Subjects had nothing to fear and everything to gain from loyalty and dutiful

[99] *The Character of an Honest Man, Whether Styled Whig or Tory*, 12.
[100] L'Estrange, *The Parallel, or, An Account of the Growth of Knavery*, 6.
[101] *Verbum Sapienti*, 2.
[102] L'Estrange, *The Lawyer Outlaw'd*, 4. This pamphlet was a direct reply to Hunt.
[103] *The Arraignment of Coordinate Power*, 4.
[104] Northleigh, *A Gentle Reflection on the Modest Account,* 6-7.
[105] *The Character of an Honest Man, Whether Styled Whig or Tory*, 12.

submission to the crown. Surrender would led to "a better charter," wrote Elinor James, and make the people of London "more glorious and happy than ever you have been."[106] The surrender would not mean, "as some giddy brains pretend… that all the privileges and franchises of the City shall be clearly lost."[107] If London would "lie at the foot of our gracious King… he would let us rise as the phoenix."[108] It was "to receive the same body again" that Tories sought surrender, "not a vile, corruptible, mutinous, factious, riotous, rebellious body, but a most obedient, loyal conformable, sincere, and perfect body… more lasting and glorious than the former."[109] Tories thus advanced a very different notion of the corporation's relationship to the public good. Rather than a bulwark of liberty and Protestantism, to Tories the charter had become a tool of faction and a focus of intestinal conflicts within the body politic. Voluntarily surrendering it would allow the people to enter a new period of harmonious rule under a merciful prince.

In addition to explaining the political necessity of a new charter to secure both King and people against the depredations of the Whig faction, some Tories provided analyses of corporate law to show that the *Quo Warranto* was justified. There was, they argued, nothing unusual about a city's privileges being seized or adjusted in response to misuse. One author assembled a lengthy list of precedents of *The Forfeitures of London's Charter*, to show that this had happened to the City many times before.[110] It was only proper that the King be able to correct his

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[106] Elinor James, *To the Right Honorable the Lord Mayor and Court of Aldermen and all the Rest of the Loyal Citizens* (London: [Elinor James], 1683).
[107] *Here is a True and Perfect Account of the Proceedings at Windsor Concerning the Citizen's Petition Presented to His Most Gracious Majesty by the Right Honorable the Lord Mayor and the Worshipful Court of Aldermen, Likewise the King's Most Gracious Answer Delivered to them by the Lord Mayor* (London: E. Mallet, 1683), 2.
[108] *London's Lamentation for the Loss of Their Charter* (London: A. Banks, 1683), 2. The phoenix analogy was common among Tories. See *The Last Will and Testament of the Charter of London* (London: John Owsely, 1683), 2.
[109] *The Last Will and Testament of the Charter of London*, 1.
[110] *The Forfeitures of London's Charter, or an Impartial Account of the Several Seizures of the City Charter* (London: Daniel Brown, 1682).

corporations when they erred. Corporations, stressed the Tories (in line with most contemporary legal thinkers), were "franchises… with a condition in law annexed to them, that they shall rightly use them, otherwise they shall be forfeited."[111] L'Estrange suggested that the whole premise of municipal autonomy was against reason. If the King "gave municipal cities any such liberties or immunities, as were not forfeitable upon their abusing the power they received" then "neither prince nor people could be secure from the insolence of… uncontrollable citizens."[112] "The grant of an unconditional charter," he wrote elsewhere, "is the setting up of another supremacy" which "strangles the most tender and generous inclinations of any prince… For what king will ever bear to incorporate any body of his people, when at the same time, he discharges that body of their allegiance?"[113] The goal of incorporation was "good government," and according to the Tories, its ultimate arbiter was the Crown. Obviously Tory legal commentators did not see the uses Whigs made of power as consonant with such aims. They echoed the state's charge that the City had levied money without sanction at its markets – a trumped up charge, to be sure. Yet according to Tories, it proved the City's government had "misused and abused their franchises by levying… money, to the oppression of his Majesty's good subjects."[114] "Money cannot be raised or charged upon the subject but by act of Parliament" wrote one author. "If the King himself cannot do it, I am sure no corporation can." It was, the author suggested, worse than ship money.[115] They likewise hammered on the government's other charge, that the Common Council petition to the King of January 13, 1681 made "ill reflections on his Majesty

[111] *The Case of the Charter of London Stated* (London: John Kidgell, 1683), 8.
[112] L'Estrange, *The Lawyer Outlaw'd*, 1-2.
[113] L'Estrange, *Observator in Dialogue* #363 (6/25/1683).
[114] *The Case of the Charter of London Stated* (London: John Kidgell, 1683), 18.
[115] *The Power of the Kings of England to Examine the Charters of Particular Corporations and Companies Exemplified by the Statutes and Laws of this Realm* (London: 1684), 12, 14.

and his government," tending to sedition.[116] Another pamphlet made the same point that "without any legal authority" the Mayor, Commonalty, and citizens "did assume upon themselves to censure and judge our said lord the King."[117] The law, the Tories argued, was on their side. Corporations were not autonomous bodies, free to act as they wished. They were grants of royal powers, subject to royal oversight. The City's Whig leaders had done actions which were clearly contrary to the good government for which the charter was sealed. For these actions, the charter was forfeit.[118]

The dispute over surrender and the *Quo Warranto* was not only expressed at this erudite level. Poems, songs, plays, and satires of London politics in the early 1680s frequently touched on the topic of the *Quo Warranto*, and advanced Whig and Tory talking points among the lower orders. For Whigs, the core of this message concerned the duplicity of the Tories. Satirical pamphlets like *A Modest Account of the Present Posture of Affairs in England* offered "a thousand pities that the city-charter were not gone," and that Tory courtiers did "not have the naming of Sheriffs."[119] Whig songs like *The Tories' Confession* imagined the Tories plotting to "choose their sheriffs and juries too / and then pretend 'tis law" and then "seize their charters."[120] Poems eulogizing dead Tories described how they sought "London to enslave" in the face of "Charters, Rights, and Freedoms, which [the populace] draw / from some Moth-eaten Grant, or musty law."[121] Henry Care, the Whig journalist and author of the *Weekly Pacquet of Advice from Rome*, described a Tory club at the Queen's Head where men drank "confusions to the city

[116] *The Case of the Charter of London Stated* (London: John Kidgell, 1683), 15. In general, these tracked the arguments and issues presented in the *Quo Warranto* trial.
[117] *The Power of the Kings of England to Examine the Charters of Particular Corporations*, 12.
[118] The legal arguments in *Rex v. London* were examined at length in the previous chapter.
[119] *A Modest Account of the Present Posture of Affairs in England* (London: Richard Baldwin, 1682), 4-5.
[120] *The Tories' Confession, or, A Merry Song in Answer to the Whigs Exaltation, to the same Tune of Forty-One* (London: T.H., 1682), 1.
[121] *A Congratulatory Poem on the Wonderful Atchievements of Sir John Mandevil, &c* (London: Frances Smith, 1683).

charter" and sat around "arguing how expedient it was to make a bonfire of" it.[122] Another satire, pretending to be the last will and testament of the Charter of London, bewailed the city's "numerous off-spring… my ungracious children" the Tories, who "viper-like seek to destroy what's gave them" and who, like Don Quixote, "cannot discern the difference 'twixt a windmill and an armed knight."[123] Whig propaganda surrounding the charter controversy appealed to the learned and the lowly alike.

Beginning in 1682, systematic suppression of Whig publishers and texts meant that most print discussion of the charter of London came from the Tories. As in other aspects of their propaganda, the Tories were extremely effective at making their arguments about the charter to popular audiences. Publishers like Nathaniel Thompson circulated numerous songs celebrating the *Quo Warranto* as deliverance from Whig tyranny. Singers of *London's Lamentation* reminded listeners that London's "freedom and rights from kind princes did spring / and yet in contempt thou [London] withstandest thy king." But the solution to the City's woes was readily apparent: if London would "submit to the King / in every thing" then "a new charter will rise."[124] Another diddy celebrated the Tory victory by having the Whigs sing "the City charter void of cure / we're stripped of all our hopes / of making Kings by broom-staff power / and every year new popes."[125] This mockery was a common feature. "Let the snarling Whig / ne'r look so big / nor once pretend to mutter; / Now their charter's gone / They sigh and moan" ran one song. This song further contrasted the despondency of the Whigs with the celebrations of the Tories,

[122] Henry Care, *Weekly Pacquet of Advice from Rome* #3 (1/6/1681[/2]).
[123] *The Charter of London's Answer to a Scurrilous Libel Intituled its Last Will and Testament, etc* (London: Langley Curtiss, 1683). This Whig satire answered the Tory *The Last Will and Testament of the Charter of London*.
[124] *London's Lamentation, or, An Excellent New Song on the Loss of London's Charter* (London: NT, 1683).
[125] *A New Song Between Whig and Tory, to the Tune Some Say the Papists Had a Plot* (London: J. Dean, 1683).

"drinking our new charter's health."[126] One particularly incisive number, *The Charter: A Comical Satyr*, castigated the Whigs who had

> misus'd / your charter, and the Known laws abus'd; / riots and routs, you that should them suppress, / you have promoted to a great excess; / you have pick'd juries, packed them for your cause / and this destroys the fundamental laws; / you that should schism and faction quell, support / unlawful meetings, and to them resort.[127]

Evidently there was no reason that legal arguments could not be made accessible to non-lawyerly audiences. According to Nathaniel Thompson, undoubtedly a biased commentator, ballads and loyal songs exerted a profound influence in "reduc[ing] the deluded multitude to their just allegiance" because the choristers "were asserting the rights of monarchy, and proclaiming loyalty in every street."[128] The streets of London were alive with the music of Tory anti-charter ballads in 1682 and 1683.

Prose satires and plays likewise lampooned London's Whigs and expressed support for the *Quo Warranto* and charter surrender. John Crowne, the Tory playwright, jeered at the Whigs who "such cursed poets choose / for that alone they should their charter lose." In his play *City Politiques: A Comedy*, the Whigs, in their insolence, treat their charter "as a charter to be sawcy." "Railing, faction, and sawciness are no part of our liberties that I know of" wrote Crowne.[129] Attendees at performances of *City Politics* were told that the charter was under scrutiny because the Whigs were factious and needed royal correction. Other prose works, including satires and pieces of fiction, highlighted the insolence of the Whig party and the illegitimacy of resistance to

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[126] *The Whigs in Mourning for the Loss of their Charter, to the Tune of, Let the Whigs Repine, and All Combine* (London: Patrick True, 1683).
[127] *The Charter: A Comical Satyr* (London: Alexander Banks, 1682), 5. This was republished in 1683 as *The Saints New Charter, Written Occasionally upon the Quo Warranto with some Remarks Upon the Late Riots, &c.* (London: Alex. Banks, 1683).
[128] Thompson, *A Choice Collection of 120 Loyal Songs*, "To the Reader." Thompson's collection includes some of the songs above, as well as others which comment on the charter.
[129] John Crown, *City Politiques: A Comedy* (London: R. Bently in Covent-Garden, and Joseph-Hindmarsh, 1683), "Prologue", 10, "To the Reader."

the *Quo Warranto*. An issue of L'Estrange's *Observator* sported a faux petition from Charles II to "Millenarius Coffee-House, King Among the Saints," requesting that he may be permitted to "live quietly" as King of England so long as he promised "never to trouble" the City.[130] Such satires suggested that Whigs were turning the world upside-down and throwing off royal government by insisting on the city's rights to self-government. An obscene piece of horror fiction, *Shaftesbury's Ghost to Doctor Oats, in a Vision, Concerning the Jesuits and Lords in the Tower*, had a demonic Shaftesbury urging Oates to "tell the City their liberties are lost with their charter, preach sedition to the people… tell them the Lord Mayor [Pritchard] and present Sheriffs are usurpers, and betrayers of the rights and liberties of the subject."[131] The City's liberties, according to Tories, would be just as well secured by a new charter as by the old – it was only the liberty to be factious and preach sedition which would be lost. Only the factious complained of the *Quo Warranto*, or doubted the King's word about the guarantee of new privileges.[132] Another story described a duel between two Common Councilmen, "occasioned on a difference about the surrender of the charter" with Roymond "the Tory giant, asserting and justifying the King's rights, and Routal, the right and liberty of the people."[133] In the story, Roymond emerges victorious, winning Routal to his cause, and the Whigs are derided as manipulators of the public and whoremongers. Another satire, entitled *The Last Will and Testament of the Charter of London*, "alias hydra, the many headed monster, the rebellious subject, and unprofitable servant of our Lord the King," looked forward with eagerness to the end of the charter. The satire blamed

[130] L'Estrange, *Observator in Dialogue* #40 (8/6/1681).
[131] *Shaftesbury's Ghost to Doctor Oats, in a Vision, Concerning the Jesuits and Lords in the Tower* (Edinburgh: Heir of Andrew Anderson, Printer to his Most Sacred Majesty, 1683), 2.
[132] *APerfect and True Account of the Proceeding at Windsor, Concerning the Citizen's Petition Presented to His Most Gracious Majesty*, 1-2.
[133] *News from Guild-Hall, or the Combat of the Giants* (London: 1683), 1-2.

"that factious body" for bringing the charter "to this untimely end" but bequeathed to "the loyal party… all the wealth, pleasure, and power of the City."[134]

Debate continued after the court issued its judgement on the case in June 1683. At the request of Attorney General Robert Sawyer, the king's chief counsel, the ruling had not been enrolled to give London one final opportunity to surrender.[135] On June 18, the Tory Lord Mayor William Pritchard submitted a petition to Charles apologizing "for the misgovernment of this your city" and promising to obey all "your majesty's commands and directions" to remedy the city's government. Lord Keeper Francis North answered on behalf of the king. The king had exhibited immense patience in his dealings with the city, declining to call them to account until "disorders were grown to that height, that nothing less seemed to be designed, than a ruin to the government both of church and state." Yet Charles was still prepared to be merciful. If London would submit to the king's pleasure and voluntarily accept royal approbation of all elected officeholders, Charles would "confirm your charter." If they refused, the judgement would be entered. If that happened, "the fault [would] lie" with the city, "in whose power it now is, to bring this affair to a happy conclusion."[136]

The city managed to delay its answer for months, but the final deadline arrived in early October. On September 27, Lord Mayor Pritchard delivered to the Common Council two instruments drafted by Attorney General Robert Sawyer: one, an instrument of surrender of the City's privileges; the other, an outline of the terms of the regrant. Upon "long debate," the aldermen of the Common Council solicited advice on what amounted to two concerns: first, what

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[134] *The Last Will and Testament of the Charter of London*, 1-2.
[135] *ST*, VIII: 1272n-1273n.
[136] "The Humble Petition of the Lord Mayor, Aldermen, and Commons of the City of London, in Common Council assembled, as it was presented to his Majesty in Council at Windsor" (6/18/1683), "Lord Keeper Guilford's answer" (6/18/1683) TNA, PC 2/70, pp 8-10. Transcripts of these documents are in *ST*, VIII: 1273-1283. See also *A Perfect and True Account of the Proceeding at Windsor, Concerning the Citizen's Petition Presented to His Most Gracious Majesty*, 1-2.

would the effects of the surrender and regrant be? And second, would surrender be more or less fatal to the city than allowing the judgement in *Rex v. London* to be enrolled?[137] On October 1, three attorneys – Attorney General Robert Sawyer, Solicitor General Heneage Finch the Younger, and Serjeant-at-Law John Holt – delivered their opinions on these questions to a select committee of the council. They were largely in agreement as to the city's best course of action. By surrendering the charter, Sawyer argued, the city parted "with some particulars to save the whole." Concerning the mayoral office, a subject that clearly made the committee nervous, Holt and Finch offered soothing words. The surrender "only divests the city of the right of election and nomination of particular officers," noted Holt. It was only "the right of electing" that the city parted with by the surrender, agreed Finch. "No customs or prescriptions belonging to the office are lost." In all other respects, the lawyers agreed, London would remain untouched. The city would be "freed from the danger [of] the present *Quo Warranto* and also from all fines and forfeitures they have incurred from their many repeated transgressions" promised Sawyer. "The regrant puts the city in the same capacity there were before," argued Finch, excepting only "those alterations therein mentioned" concerning the king's approbation of key officeholders. Submission would ensure that the government and privileges of London continued largely unabated. Entering the judgement, meanwhile, would yield far more alarming and uncertain results. It would, argued Sawyer, sacrifice "not only the liberties mentioned in the surrender, but the very liberty of being a corporation, and consequently all other liberties and rights whereof the corporation is seized." "No man can foresee or set down all the ill consequences and perplex questions the citizens may be embroiled with upon entry of judgement" an act that would

[137] "A Committee to Advise with Counsel upon the Surrender and Regrant" (9/27/1683) London Archives, COL/CC/01/01/48, f 95v.

"overthrow… the whole present constitution of the city."[138] The Court of King's Bench had already made their ruling – it was only the king's mercy that had prevented the upheavals that would attend enrollment of the judgement. Surely, they argued, surrender was the pragmatic choice.

The city's Recorder, George Treby, delivered his opinion the following afternoon. Treby began his lengthy opinion with an incendiary blast. "If the surrender have any effect," he began, "it destroys the corporation." By its very name, London was a corporation of Mayor, Commonalty, and Citizens – the power of electing officials was "incident to this corporation" and could no more be parted with than the "power of admitting freemen." Yet allowing that the corporation was not destroyed, Treby asked, what was left after the surrender? "By this surrender the whole frame of the government of London is altered." "After this," he continued, "every mayor, alderman, recorder, common serjeant, town-clerk, coroner, and steward (as well as justices of peace) are in effect wholly put in by the king" who would veto any election he disapproved of. "This takes so much away from the mayor and aldermen, as leaves little or nothing." All the city's lesser officers, Treby added, such as the "chamberlain, bridge-masters, sword-bearer, [or] common cryer," as well as "the commoners for common council" were appointed, vetoed, or elected in procedures overseen by the aldermen, who after the surrender would be effectively royal servants. By these means all officers would be "mediately made by the king." In conclusion, Treby opined, by the instrument of surrender "the active part, the soul of the city is surrendered, and little or nothing left but an unactive lump of people who cannot assemble, do, nor have anything but as the king or his officer of his appointment please." If the essence of a corporation was government in trust for the king, as Charles's barristers had argued

[138] "Opinion of Robert Sawyer" (10/1/1683) "Opinion of Heneage Finch" (10/1/1683) "Opinion of John Holt" (10/1/1683) London Archives, COL/CC/01/01/48, ff 96r-98r.

in *Rex v. London*, then the instrument of surrender "which takes away the government wholly in substance from the town does therein take away the privilege and value of the corporation."[139]

Under such abject royal control, Londoners could have no security for their liberties or property. By the instrument of surrender, Treby noted "the very town clerk, who has the custody of all charters, evidences for defence of the city rights, is to be appointed by the king." Such a city would never maintain its rights and privileges against royal encroachment. "If any future king should bring a suit against the city for their lands, markets, fairs, &c.," suggested Treby, the king's "mayor and aldermen may obstruct the defense." Who could forget that when Henry VIII appointed heads of monasteries, those properties were quickly surrendered to the king? Yet more than the city's property and privileges were at stake. The very being of the corporation could not be secure under the terms proposed. If key offices could not be filled without royal approval, the monarchs could destroy corporations by refusing to approve or appoint officers. "If this surrender pass," Treby warned, "it will be in the power of all kings… by making no mayor, aldermen, &c… to dissolve the corporation at anytime, so that that dissolution which is feared is not hereby prevented." By these means "the greatest inheritance among the subjects of England," was rendered "an estate… at will" of the prince.[140]

In Treby's view, the consequences of surrender were vast. But surely the judgement was even more fatal to the city? Not so, the Recorder argued – the judgement was wrong. Here he reiterated some of the arguments he had made months earlier before the King's Bench – monarchs could only "seize… what is seizeable" but London's corporateness was "a capacity which cannot subsist anywhere [but] in these very citizens." During the arguments in *Rex v. London*, Treby recounted, "the king's counsel acknowledged there could not be found any

[139] "Opinion of Mr. Recorder [George Treby]" (10/2/1683) London Archives, COL/CC/01/01/48, ff 98v-100r.
[140] "Opinion of Mr. Recorder [George Treby]" (10/2/1683) London Archives, COL/CC/01/01/48, ff 98v-100r.

precedent of judgement, for dissolving a corporation as forfeit." "Therefore," he concluded, "it cannot be common law." Treby seemed confident that, in time, a parliament could overturn this new precedent. It was in anticipation of that day of reckoning that the members of the Common Council must not submit. If the judgement were entered it would be "rendered against the unwilling." "I and others [are] of opinion that corporations cannot be dissolved… and if such judgement or execution should be, it will be erroneous, and against erroneous proceedings there may be redress." Not so against the surrender, which would pass "by and with the assent of the citizens." For Treby, submitting to the king would forever undermine London's liberties; allowing the judgement to be entered against the city's will would enable London to fight another day.[141]

The Common Council surveyed the four opinions laid out by the Committee, and after "long debate," at nearly 11 o'clock at night, the question was put "whether the instrument of a surrender now offered… shall be engrossed and pass under the Common Seal of the City." Lord Mayor Pritchard offered one last act of intimidation, promising to record the names of all "who durst oppose the king."[142] Yet despite this threat, the Whigs carried the day. The final poll was a narrow 85 in favor of surrender and 103 against. The Common Council ordered the Lord Mayor to appoint fit persons to deliver their vote to the king the next morning, alongside a plea "that his majesty will be graciously pleased to continue his royal favor to this city."[143] The next morning, the city's two Tory sheriffs delivered the news to the king, who was "extremely displeased with

[141] "Opinion of Mr. Recorder [George Treby]" (10/2/1683) London Archives, COL/CC/01/01/48, ff 98v-100r.
[142] "Testimony of Leonard Robinson" (5/16/1690) in Felix JH Skene and Edward Fairfax Taylor, *Historical Manuscripts Commission Thirteenth Report, Appendix, Part V: The Manuscripts of the House of Lords, 1690-1* (London: Her Majesty's Stationery Office, 1892), 50, 52.
[143] "Vote on the Surrender" (10/2/1683) London Archives, COL/CC/01/01/48, f 98r-v; Luttrell, *Brief Historical Relation*, I: 282; *The Proceedings upon the Debates, Relating to the Late Charter of the City of London, as also the Entering Up of Judgement Against it, Giving an Account of the Most Remarkable Transactions Relating to that Affair* (London: Langley Curtis: 1683); "News" (10/6/1683) BL, Add MS 28875, f 281v.

the city's proceedings" and ordered AG Sawyer to enter the judgement against the corporation. On October 3, 1683, Charles finally claimed victory in his endless battle with his most fractious corporation.[144] In the following days, Charles doled out royal commissions to the city's Tory leaders, who would now serve at his royal pleasure.[145] London's autonomous corporate government had succumbed to royal power; it would not be restored to its former position until September 1688, when the looming prospect of Dutch invasion prompted James II to return a great many of the charters he and his brother had seized. With London's refusal to submit and Charles's seizure of the charter, the most intense and voluminous debate about corporate surrender of the entire reign drew to a close. Yet London's conflict anticipated many of the arguments that would be deployed in other municipalities as they debated surrender in 1682-1685. It is to those debates over surrender in the provincial boroughs that we now turn.

The First Surrenders, 1682 – June 1683

The campaign against the charters of provincial boroughs during the Tory Reaction was carried out in two waves: the first from January 1682 to June 1683, the second from July 1683 to February 1685. During the first wave, 10 municipal corporations received new charters – almost as many as in the preceding six years.[146] All but one of these new charters replaced an earlier one that had been surrendered by the town. These surrenders were, in part, the consequence of longstanding divisions within English municipal corporations. Townsmen had clashed with each

[144] Newdigate Newsletter (10/4/1683) Folger Shakespeare Library, LC 1445.
[145] "Lord Mayor and Sheriffs of London Sworn" (10/4/1683) TNA, PC 2/70, p 46; "List of Persons to Supply the Places of the 8 Displaced Aldermen" (10/6/1683) TNA, SP 29/433, f 185r.
[146] 11 charters passed the Great Seal between March 1675 and February 1681. The ten charters that passed the Great Seal during this first phase are: Thetford (3/6/1681[/2]); Hereford (3/28/1682); Tavistock (7/29/1682); Portsmouth (8/18/1682); Andover (9/2/1682); Derby (9/5/1682); Nottingham (9/28/1682); Maidstone (10/26/1682); Norwich (3/22/1682[/3]), and Chard (6/29/1683). Tavistock was a new incorporation and so had not surrendered any charter; Saltash surrendered its charter on March 2, 1682/3, but did not receive a new one until November 27. Halliday, *Dismembering the Body Politic*, Appendix A, 351.

other for preeminence, for privileges, and for position in interpersonal rivalries that stretched back decades. As Paul Halliday has shown, one aspect of this division in the latter half of the 17th century was the cleavage between conformists and nonconformists, and the political question of the place of dissent in the body politic.[147] To some extent then, national political issues had long been central to municipal politics. Yet during the 1680s, as dissent became acutely bound up with other issues – the succession, the relationship between parliament and the king, and the obedience subjects owed their sovereign – the content of local political conflicts changed. The first wave of surrenders was largely a response to this change, and to the interaction between local interpersonal rivalries and national issues, ideology, and the legacy of the civil wars.

The figures involved in these early charter surrenders frequently exhibited political horizons much broader than their provincial boroughs. The MP Herbert Aubrey, for instance, played a decisive role in promoting the surrender of the charter of Hereford on March 14, 1682.[148] Although Aubrey did little to distinguish himself during the Oxford Parliament, he proved a zealous proponent of the Tory cause in his native Herefordshire. In 1680 he unsuccessfully urged the Grand Jury to present an abhorrence against petitions for the sitting of parliament, a common Tory ambition during the Exclusion Crisis. He had greater success following the dissolution of the Oxford Parliament, when he delivered an address on behalf of Hereford announcing the city's "dutiful and loyal reception" of Charles's *Declaration* concerning the dissolution. The following summer he promoted a similar declaration in his capacity as Chairman of the Herefordshire Quarter Sessions, despite the efforts of one "immoral man" whom he claimed threatened the members of the Grand Jury "with ruin, and starving, and their posterities." For his zeal in

[147] Halliday, *Dismembering the Body Politic*, xiv, 6-8, 15-16, 18-21.
[148] In addition to serving as the main point of contact between the government and the Tories of Herefordshire (see below) Aubrey delivered the new charter to the Mayor of Hereford in an elaborate ceremony on May 10, 1682. *London Gazette* #1720 (5/11-15/1682).

promoting the address, Aubrey received the king's "hearty thanks."[149] Aubrey also served as the main contact between Secretary Jenkins and the Tory gentry of Herefordshire, who met occasionally at Holme Lacy.[150] By November 1681, his efforts to "serv[e] my prince and all that love him" had borne fruit; he could report with satisfaction that "as to our country affairs, the enemies to the government are as still as midnight, and their interest doth daily decay."[151] By the end of 1681 Jenkins was "perfectly satisfied in your affections most entire for the king."[152] Aubrey and his allies in Whitehall recognized his efforts in Herefordshire as local manifestations of a national political struggle.

Aubrey was motivated by more than an antipathy to dissent; he and his fellow Herefordshire royalists seem to have taken seriously many aspects of Tory ideology concerning the threat of petitions for parliament, the need for parliament's dissolution, and the dangerous extremism of Hereford's Whigs. These aims were central to Aubrey's campaign to remodel the city's charter. In May 1681, at roughly the same time that Aubrey presented Hereford's loyal address, he seems to have delivered a petition on behalf of the borough for a new fair, as well as several other modifications to the city's charter.[153] Jenkins's response anticipated the shape of the corporate policy that would develop in Whitehall over the ensuing year. "For the bringing about such a work as the changing of a charter," Jenkins wrote, it was necessary to have the "old one…

[149] "Leoline Jenkins to Mayor of Hereford" (5/21/1681) TNA, SP 44/62, pp 176-177; "Leoline Jenkins to Herbert Aubrey" (7/23/1681) TNA, SP 44/62, p 216; "Herbert Aubrey [Hereford] to Leoline Jenkins" (11/9/1681) TNA, SP 29/417, f 197r; Edward Rowlands, "AUBREY, Herbert (c.1635-91), of The Black Friars, Hereford" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/aubrey-herbert-1635-91.
[150] Edward Rowlands, "AUBREY, Herbert (c.1635-91), of The Black Friars, Hereford" in *History of Parliament Online,* accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/aubrey-herbert-1635-91; Edward Rowlands, "SCUDAMORE, John, 2nd Visct. Scudamore of Sligo [I] (c.1650-97), of Holme Lacy, Herefs." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/scudamore-john-1650-97.
[151] "Herbert Aubrey [Hereford] to Leoline Jenkins" (11/9/1681) TNA, SP 29/417, f 197r.
[152] "Leoline Jenkins to Herbert Aubrey" (12/1/1681) TNA, SP 44/62, p 363.
[153] "Leoline Jenkins to Herbert Aubrey" (5/21/1681) TNA, SP 44/62, p176.

delivered up by a voluntary surrender of the magistrates and chief citizens, or called for by a *Quo Warranto*: which I desire your friends there to consider, that what you go upon may be fundamental and effectual."[154] Aubrey and his "friends," the Herefordshire Tories, did not revisit the matter until January 1682, after London received its *Quo Warranto*. Thereupon they drew up a paper of "Articles of Mal-Administration and Ill-Government of the City of Hereford… which are conceived will amount to a Forfeiture of the Charter, Liberties, and Franchises of the said City." The 12 charges covered a wide range of offenses, from failing to maintain local infrastructure, to imposing unlawful oaths, to technical acts of forfeiture and a failure to observe the Corporation Act. Yet the most significant allegations centered on the city leadership's preference and support for manifest enemies of Charles II's government – it was their crimes against the nation that most incensed the Tories. The citizens and common council had "elected and chosen several officers… that have been in actual arms against the king, or that are disaffected to the present government" including the town crier who "in the late rebellious times proclaimed his Majesty that now is to be a traitor." The "pretended mayor and some of his predecessors" had "given the freedom of the city to near 200 persons" for the purpose of electing the exclusionist MP, independent congregationalist, and suspected republican Paul Foley. These new residents were "such as have been… factious and disaffected to the present government in Church and state." The Whigs in control of the city had diverted taxes to "the treating and entertaining of Mr. Foley and others of the same faction," a misuse of corporate resources for promoting rebellion that resembled the charges ultimately leveled against London. For these and other offenses, alleged Aubrey and his compatriots, Hereford's civic leaders had "forfeited their

[154] "Leoline Jenkins to Herbert Aubrey" (6/23/1681) TNA, SP 44/62, pp 188-189.

charter, franchises, and liberties."[155] Even before news of the *Quo Warranto* reached Hereford on February 14, Aubrey, resolving to act "as becomes a good subject," made it his business to ensure "that it will not be contested."[156] To Aubrey and his fellow Tories, the struggle over the Hereford charter was one front in a much wider war against the forces of dissent, republicanism, and sedition.

If Hereford represented an early victory for England's Tories, the surrender of Norwich's charter marked a moment of triumph. In the 17th century Norwich was England's second city, a bustling borough of over 14,000 inhabitants sporting some 2,800 freemen.[157] Like Hereford, it was deeply divided. In January 1679 the Tory MP and future Earl of Yarmouth William Paston was warned that the "honest part of [the] city of Norwich" had "high esteem for your honor," but that "another sort of men, who neither wish well to the King's majesty nor his interest" were "still as active as ever to deceive the people."[158] By 1682, observers could discern "3 parties" in the city: "the violent Tories and Violent Whigs, as they are called, and the moderate men who are for the present government both in Church and state." The leader of "the mad Tories," Captain

[155] "Account of Certain Clauses Taken Out of the Charter for the City of Hereford, and of Ancient Liberties and Customs Confirmed Thereby, with Articles of Maladministration of the City on the Part of the Mayor and Aldermen &c" (Jan? 1681[/2]) TNA, SP 29/417, ff 397r-400v; Edward Rowland, "FOLEY, Paul (c.1645-99), of Stoke Edith, Herefs." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/foley-paul-1645-99.
[156] "H[erbert] A[ubrey] to ?" (1/16/1681[/2]) BL, Add MS 28875, f 202r; *The Proceedings of the Citizens of Hereford, in the Delivery Up of their Charter, and Renewing it: Vindicated from the Scurrilous Imputations of Richard Janeway, by a Lover of the King, the Government, and the City, in a Letter to a Friend* (London: Joanna Brome, 1682), 2.
[157] John Langton, "Urban Growth and Economic Change: From the Late Seventeenth Century to 1841" in Peter Clark, Ed., *The Cambridge Urban History of Britain* (Cambridge: Cambridge University Press, 2000), II: 473; Paula Watson, "Norwich," in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/constituencies/norwich.
[158] "George Stebbing to Colonel William Paston" (1/29/1678[/9]) in Jean Agnew, Ed., *The Whirlpool of Misadventures: Letters of Robert Paston, First Earl of Yarmouth, 1663-1679* (Norwich: Norfolk Record Society, 2012), 367. William Paston was Robert Paston's son.

John Houghton, a JP for Norfolk, would play a significant role in securing the surrender of the charter, alongside Norfolk's Lord Lieutenant, Robert Paston, Earl of Yarmouth.[159]

The Tories behind the Norwich surrender were deeply concerned about the perceived disloyalty of their Whig neighbors. The party opposed to surrender consisted of about 40 prominent people in the city according to Houghton and fellow Tory William Cecil, among whom were "tub preachers, some old rebels, and all of them notorious phanaticks and conventiclers."[160] Another report noted that the opposition consisted of two former rebels against the Stuarts as well as "others disaffected to the established government."[161] The most powerful Whig with influence in Norwich was Sir John Hobart, who had been a prominent exclusionist and MP for Norfolk. Hobart was criticized by opponents in Norwich as one "who [would] endeavor to prevent the succession in the right line, or make any alteration in the government of the Church as by law established."[162] His religious principles were suspect – although he claimed to be able to "attend the service of God Almighty according to the establishment of our church," dissenters generally supported him, and the French Ambassador Paul Barillon believed him to be a Presbyterian.[163] Yet his disloyalty in matters of state was even more criticized. "Old commonwealth Hobart" had been "one of Oliver's lords [who] retains a respectful memory for his master and his cause" and "would stick at nothing to promote it again."[164] When Norwich

[159] "Account of Affairs in Norwich and in Norfolk" (2/2/1681[/2]) TNA, SP 29/418, f 159r; "Humphrey Prideaux to John Ellis" (8/17/1681) in Edward Maunde Thompson, Ed. *The Letters of Humphrey Prideaux, sometime Dean of Norwich, to John Ellis, sometime Undersecretary of State, 1674-1722* (Westminster: Camden Society, 1875), 90; "[Robert Paston] Earl of Yarmouth to [Rebecaa Paston] Countess Yarmouth" (9/18/1682) BL, Add MS 27448, f 127r.
[160] "John Houghton and William Cecil to the Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 78r
[161] "Norwich Aldermen to William Paston" (6/26/1682) BL, Add MS 27448, f 87r.
[162] "Edward L'Estrange to the Earl of Yarmouth" (4/15/1681) BL, Add MS 27448, f 16v.
[163] Eveline Cruickshanks, "HOBART, Sir John, 3rd Bt. (1628-83), of Blickling Hall, Norf." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/hobart-sir-john-1628-83.
[164] "Account of Affairs in Norwich and in Norfolk" (2/2/1681[/2]) TNA, SP 29/418, f 159v; Paula Watson, "Norwich," in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/constituencies/norwich.

Tories looked around their city and county, they saw a considerable minority of enemies to the established government, former rebels and sectarians.

In the face of these dangers, Tories saw surrender as a way of promoting the king's interests as well as their own. Surrender was a manifestation of the borough's loyalty to the crown, wrote the Earl of Yarmouth to the city's hesitant mayor. By surrender, Yarmouth wrote, the city did "a service grateful to your king by [a] voluntary act," when otherwise the king could seize the charter "without you."[165] The "lustre" of such "generous submission" could only be dimmed by "dark or delaying scruples." After all, submission simply placed the city into the hands of a king whom the city by their loyalty had obliged "to give some particular evidence and mark of his favor" towards them.[166] Charles's desire for such a manifestation of loyalty became hard to ignore over summer 1682, as Yarmouth repeatedly indicated the king's wish to have the charter voluntarily surrendered into his hands.[167] This enabled Tories in the borough to describe the conflict as one "between the king's friends and the fanatics," a rhetorical move that allowed any defense of local privileges or autonomy to be framed as sedition.[168] "Surrender," wrote Houghton and Cecil, was a way "to remove the king's and [Yarmouth's] enemies, which is the only way to secure the government for the future."[169] Opponents of surrender, wrote one local Tory, had "crossed and opposed all things… that might support and strengthen the king's interest, and promote[d] all things that might promote factious persons' designs and interests." The loyal party, including the Earl of Yarmouth, had done nothing "in the business of the charter but what is absolutely necessary to support the true interest of his Majesty in this city."[170] The king's

[165] "Earl of Yarmouth to [Hugh Bokenham] Mayor of Norwich" (5/29/1682) BL, Add MS 27448, f 61r.
[166] "Earl of Yarmouth to [Hugh Bokenham] Mayor of Norwich" (5/29/1682) BL, Add MS 27448, f 70v.
[167] "Earl of Yarmouth to ?" (1682) BL, Add MS 27448, f 63r; "Leoline Jenkins to the Earl of Yarmouth" (9/16/1682) BL, Add MS 27448, f 125r-v.
[168] "John Houghton and William Cecil to the Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 78r.
[169] "John Houghton and William Cecil to the Earl of Yarmouth" (6/5/1682) BL, Add MS 27448, f 74r.
[170] "John Fassett to Lord Hyde" (9/13/1682) BL, Add MS 27448, f 122r.

interest required purging Whigs, dissenters, and former rebels by bringing the government under more close royal supervision. For this reason, wrote Houghton, "this cause" of surrendering the charter "is really the king's."[171] When the royal will became inescapably clear, the mayor submitted to the inevitable. On September 29, 1682, Norwich formally surrendered its charters to the crown.[172] The city paired its instrument of submission with a petition for a new charter, asking "out of the tender regard we have for the security of your Majesty's person and government" that the king would reserve power to himself to approve or veto all future corporate officeholders, thereby ensuring that Norwich's government could never be the vehicle of faction.[173] The surrender of Norwich's charter was a local manifestation of national political concerns – Yarmouth, Houghton, and others within the city viewed surrender as a way to demonstrate their own loyalty, crush the king's enemies, and strengthen royal authority in the wake of national challenges to royal government and the established church.

The political dynamics involved in the Hereford and Norwich surrenders are especially well-documented, but they do not appear to have been exceptional. Other figures involved in early surrenders were nationally prominent political figures. Henry Somerset, Marquess of Worcester, claimed after Andover's surrender on August 30, 1682 that he had "put them upon the doing it."[174] Worcester had been a prominent ally of the Stuarts throughout the crisis years – he had voted against the exclusion bills in the House of Lords, and he was a close confidant of the Duke of York.[175] The corporation may not have required much urging – it had delivered an abhorrence of Shaftesbury's Association earlier that summer, and the most active figure in the surrender was

[171] "John Houghton to the Earl of Yarmouth" (5/22/1682) BL, Add MS 27448, f 64r.
[172] "Surrender of Norwich Charter" (9/29/1682) Norfolk Record Office – Norwich Branch, NCR 8c/14.
[173] "Petition of the Mayor, Sheriffs, Citizens and Commonalty of… Norwich" (9/29/1682) Norfolk Record Office – Norwich Branch, NCR Case 16d/8, f 100r; *London Gazette* #1772 (11/9-13/1682).
[174] "Henry Somerset, Marquess of Worcester to Leoline Jenkins" (10/30/1682) TNA, SP 29/421/1, ff 88r-v.
[175] Molly McClain, "Somerset, Henry, first duke of Beaufort (1629-1700)" in *Oxford Dictionary of National Biography*, October 3, 2013, https://doi.org/10.1093/ref:odnb/26009.

a citizen named William Dowling, who seems to have rushed from Whitehall to Andover to Berkshire to Windsor in the course of two days to get the new charter sealed.[176] Yet Somerset's eagerness to identify himself with the surrender nonetheless speaks to the national political ambitions of the project. Other Tories of more local stature likewise reflected on the national political issues at stake, oftentimes with reference to the corrupting influence of borough Whigs on parliamentary elections. In Nottingham, Mayor Gervas Wild and several of the aldermen supported surrender in part because they wished to exclude a dissenter from the aldermanic bench because he would "bring in such a torrent of dissenters at his heels that all elections for burgesses of Parliament as other magistrates and officers… must necessary be carried as he and his factious people shall please."[177] The Mayor of Derby, Edward Walker, declared his corporation's willingness "to prostrate our liberties, properties, and privileges at the king's feet" alongside his lamentation that in recent years the borough had elected MPs "contrary to our inclinations and… the king's interest," by which he undoubtedly meant the borough's two exclusionist MPs during the crisis.[178] Many of the earliest corporations to surrender their charters did so out of a desire to purge the factious from national as well as local politics.

Perhaps the greatest evidence that surrenders were motivated (at least in part) by national political considerations comes from the petitions that cities submitted announcing their reasons for surrender and rechartering. Several corporations expressed their willingness to surrender

[176] *The London Gazette* #1728 (6/8-12/1682); "Statement by John Cooke" (9/13/1682) TNA, SP 29/420, f 98r-v. According to Google Maps, this trip is roughly 120 miles on foot today.
[177] "Affidavit by Obadiah Kendall of Nottingham" (5/2/1682), "The Mayor and Burgess of the Town of Nottingham Against John Sherwin" (5/2/1682) TNA, SP 29/419, f 3r, 4r-5r.
[178] "Edward Walker, Mayor of Derby to Robert, Lord Ferrers" (6/5/1682) TNA, SP 29/419, f 93r; E.R. Edwards, "GREY (GRAY), Hon. Anchitell (c.1624-1702), of Risley, Derbys." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/grey-%28gray%29-hon-anchitell-1624-1702; E.R. Edwards, "VERNON, George (c.1636-1702), of Sudbury Hall, Derbys." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/vernon-george-1636-1702.

alongside acts of overt Tory loyalty. The corporation of Maidstone may have led the way. On April 7, 1682, Maidstone's mayor, jurats, and common council drafted an abhorrence of Shaftesbury's Association pledging to take up arms against a popish successor. The themes of the abhorrence were commonplace – Maidstone pledged to stand by Charles and "his lawful successors," and to oppose "the bloody designs… set forth in that audacious and arch-traitorous conspiracy." Yet Maidstone went further than any abhorrers heretofore by pairing their declaration with an act of self-sacrifice. To prove that their sentiments were "not verbal only," the Mayor and jurats resolved to "lay down at your Majesty's royal feet the charter of our corporation," in "full confidence and trust in your majesty's great wisdom" and in expectation that Charles would "grant us such a charter as to your princely wisdom shall seem most meet."[179] To Maidstone's civic leaders, surrendering the charter was a way to demonstrate fealty to the Stuart monarchs at a moment when political crisis and Whig plots threatened their authority in church and state. Other corporations quickly followed suit. The common council of Derby resolved to surrender their charter as part of their celebration of Charles's birthday on May 29, at which they also "burnt and drew up an abhorrence of the association."[180] Nottingham's Tory leaders delayed delivering their abhorrence until a courier arrived with the charter, so that they might "then present both [the charter] and their abhorrence together."[181] By surrendering their charters at the same time as they condemned Shaftesbury (and, implicitly, criticized London's protection of him through abuse of corporate privileges) the citizens of these boroughs testified to their distaste for Whigs and republicans, their support for the lineal succession, and their desire to use corporate power in obedience with royal government. Norwich's charter was

[179] Maidstone Common Council Book (4/7/1682) Kent History and Library Centre, Md/Acm/1/3, ff 237v-238r.
[180] *London Mercury* #20 (6/8-13/1682).
[181] "John Cooke to Leoline Jenkins" (7/29/1682) TNA, SP 29/419, f 248r.

delivered alongside a petition pledging the city's willingness "to sacrifice our lives and fortunes for the preservation of [the king's] sacred person and government in church and state as by law now established" as well as "the right of succession and lineal descent of the crown," obvious snubs to exclusionists and nonconformists.[182] Tavistock was an unincorporated community in 1682 and thus had no charter to surrender, but village leaders nonetheless framed their desire for incorporation in terms of national politics, pledging to use their charter "to govern themselves in true allegiance to [Charles's] sacred person" as well as his "lawful heirs and successors."[183] The motivations for municipal surrenders were national as well as local in character.

The political operators who helped facilitate charter surrenders in the first year and a half of the government's new charter policy recognized from early on that they were blazing a trail for their fellow corporations to follow. When Robert, Lord Ferrers offered to influence Derby to surrender its municipal charter in June 1682, he noted that it might be especially useful to the king considering that Derby was "the county town and most considerable corporation in these parts." He likewise offered to intervene with the boroughs of Staffordshire.[184] After Derby's surrender was sealed on July 11, Ferrers expressed his hope that "the favor his majesty will show to so much loyalty will be of excellent example to other corporations," a further indication that Ferrers understood Debry as an exemplar. When the Earl of Yarmouth delivered the surrender of Norwich in September 1682, Jenkins was ecstatic. The surrender was "not only good service to the crown and good reputation to your lordship," praised Jenkins, "but the example is of universal influence upon corporations all England over."[185] Tories involved in this early phase of

[182] "Petition of the Mayor, Sheriffs, Citizens and Commonalty of… Norwich" (9/29/1682) Norfolk Record Office – Norwich Branch, NCR Case 16d/8, f 100r; *London Gazette* #1772 (11/9-13/1682).
[183] "The Burgesses and Inhabitants of Tavistock to the King" (March 1682) TNA, SP 29/418, f 47v.
[184] "Robert, Lord Ferrers to Leoline Jenkins" (6/5/1682) TNA, SP 29/419, f 91r.
[185] "Leoline Jenkins to Earl of Yarmouth" (9/23/1682) TNA, SP 44/68, p139.

surrender were mindful that other corporations were watching, and that rewarding submission would improve the prospects for surrender elsewhere. Occasionally, they made this project explicit. Around the beginning of June 1682, the printer Joanna Brome published an account of *The Proceedings of the Citizens of Hereford, in the Delivery up of their Charter*, a pamphlet ostensibly written by a Hereford Tory defending the surrender of that city's charter as an act of "loyal, but submissive subjects." Its explicit goal was to hold up Hereford's conduct as an example for other municipalities "at this time [when] some considerable charters are upon the point of trial, and… many more are in ill circumstances, and willing to surrender." Alongside an account of their decision to submit, Brome included a copy of the instrument of surrender by which the city had yielded up their charter

> for the better and easier information of other cities, that are in the circumstances we lately were, to whom (perhaps even to the greatest [London]) it may be useful… when they shall see their error in contending with his majesty.[186]

By vindicating the proceedings of the citizens of Hereford, Brome sought to hold up their surrender as a model for other corporations to follow. By making the instrument of resignation widely available, she sought to facilitate surrender on a broad scale. To her, like Ferrers and Jenkins, these early surrenders were just the beginning.

It was not only the Tories who saw these early struggles over municipal charters as part of a national conflict. From the beginning, Whigs throughout the nation were critical of the rechartering project. Brome's pamphlet responded to an issue of the printer Richard Janeway's *Impartial Protestant Mercury* that had condemned Hereford's new charter for purging Whig members. "From Hereford we are told that… divers eminent and loyal persons… who have been mayors, and sundry common council-men [are] left out" of the new charter, Janeway reported.

[186] *The Proceedings of the Citizens of Hereford*, 3-4. I have based the dating off the fact that this pamphlet was a response to Richard Janeway's *Impartial Protestant Mercury* #114, which released in late May 1682.

"People are troubled to guess the reason, unless it should be that they voted for their late worthy burgess" the Whig MP Paul Foley. He doubted this would much affect Foley's prospects, "since 'tis not doubted, but whenever his sacred majesty shall graciously be pleased to command an election for parliament, Mr. Foley will… have as many electors as ever."[187] Janeway's defense of the exclusionist Foley before his readers linked the struggle over Hereford's charter to national politics for the Whigs, in the same way that Aubrey and his friends' condemnation of Foley did for the Tories. For both parties, a key aspect of the struggle over corporate charters in 1682 was therefore the control of borough MPs and the connection between local and national politics.

Other opposition to surrender employed a more local rhetoric, emphasizing a desire to preserve traditional corporate privileges, even as its biggest promoters were typically Whigs. When they learned of the efforts to compel the city's common council to surrender their charter, Whigs in Norwich organized a petitioning campaign among the freemen of the city against surrender.[188] They submitted their petition at a meeting of the city's assembly on June 19. The petition, signed by 803 freemen of the city, charged proponents of surrender with violating their oaths to "maintain and sustain with their body and goods the franchise and liberties of the city." It concluded with a statement of the petitioners' "utter dislike of all such endeavors and actings" and prayer for "the assistance of this worshipful assembly for the maintenance of the ancient" franchises, liberties, and charters of the city.[189] The proceedings generated such "great… heats that no business of the day proceeded," reported Town Clerk Thomas Corie.[190] According to John Houghton and William Cecil, the petitioners were "so high and insolent to threaten to bring 1000

[187] Richard Janeway, *Impartial Protestant Mercury* #114 (5/23-26/1682).
[188] Narcissus Luttrell, writing in London, knew of the effort to surrender the Norwich charter on June 1, 1682. Luttrell, *Brief Historical Relation of State Affairs*, I: 191.
[189] "Petition to the Mayor, Sheriffs, and Common Council" (6/19/1682) in Robert H. Hill, Ed., *The Correspondence of Thomas Corie, Town Clerk of Norwich, 1664-1687* (Norwich: Norfolk Record Society, 1956), 41.
[190] "Thomas Corie to the Earl of Yarmouth" (6/19/1682) in Hill, *The Correspondence of Thomas Corie*, 41; "Thomas Corie to Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 82r.

men in [the] market place to back their petition" – a declaration of intent to riot.[191] The petitioners were a motley assortment of Whigs – the first signatory was a goldsmith named Leverington, who had supported Hobart's campaign in Norwich in 1681, and among the others were former rebels and "others disaffected to the established government."[192] The arrival of a letter from the Earl of Yarmouth led several members to push for a general vote on surrender, but Mayor Hugh Bokenham denied the motion and dissolved the assembly, leading Houghton and Cecil to suspect that the petition was "set on foot by Mr. Mayor himself."[193] The divisions within the city were only quieted and surrender achieved following Yarmouth's arrival in the city in August.[194]

Yet the tensions in Norwich were a ripple compared to the conflict in Nottingham. After achieving a surrender through underhanded means involving (possibly) unlawful votes and the theft of the town seal, the Tories of Nottingham laid their charter at the king's feet on August 14. Over three hundred burgesses had petitioned Mayor Gervas Wild declaring "our dissent from those your proceedings, and that we neither do nor shall consent… any surrender of any charter," along with a promise to use "all lawful ways and means [to] oppose and hinder the surrendering or vacating of any of the charters." They then petitioned Lord Chancellor Finch, requesting to be

[191] "John Houghton and William Cecil to the Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 78r.
[192] "10 Members of Norwich Assembly to William Paston" (6/26/1682) BL, Add MS 27448, f 87r. Sir John Hobart had campaigned for MP in Norwich in 1681 before sitting for Norfolk. Paula Watson, "Norwich," in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/constituencies/norwich; Eveline Cruickshanks, "HOBART, Sir John, 3rd Bt. (1628-83), of Blickling Hall, Norf." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/hobart-sir-john-1628-83; "Edward L'Estrange to the Earl of Yarmouth" (4/15/1681) BL, Add MS 27448, f 16v.
[193] "37 Members of Norwich Corporation to the Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 80r; "John Houghton and William Cecil to the Earl of Yarmouth" (6/19/1682) BL, Add MS 27448, f 78r.
[194] "John Houghton and William Cecil to the Earl of Yarmouth" (7/28/1682), "[Robert Paston] Earl of Yarmouth to the Mayor of Norwich [Hugh Bokenham]" (8/3/1682) BL, Add MS 27448, ff 108r, 110r. The city's common council resolved to surrender the charter on September 1, although it would take several weeks for a formal instrument to be sealed. "Minutes of the Norwich Assembly" (9/1/1682) Norfolk Record Office – Norwich Branch, NCR Case 16d/8, ff 98r, 99r.

heard before any surrender would be accepted, but to no avail.[195] The surrender was enrolled on September 18, and a warrant for the new charter passed September 21.[196] "Great disorders" endangering the public peace broke out when news arrived of the surrender, leading Charles to order the Duke of Newcastle to take up residence in the city to try and "quiet that place."[197] Yet the bigger conflagration followed the sealing of the new charter on September 28, at the town's annual mayoral election on Michaelmas.[198] The new charter arrived in the city at 11 AM, by which time a group of "gentlemen and some other dissenters," chief among them the Derbyshire exclusionist MP William Sacheverell, had gathered in St. Mary's Church "to come to a speedy election, before the new charter came down." There they resolved to "set up as Mayor [Alderman William Greaves] in opposition to the new charter." Meanwhile, Mayor Wild had retired to the town hall to be sworn along with the other officers named in the new charter before proceeding to the election. A crowd of 500 Whigs, some of whom were armed, stormed the town hall and elected Greaves "in a riotous, tumultuous manner" with shouts of "A Greaves! A Greaves! No New Charter, No New Charter!" They seized the mayor's books and one of the shrieval maces, forcing the Tories to flee to Mayor Wild's residence, where William Toplady was elected Mayor according to the new charter. For 7 hours Whig crowds marched through the street, proclaiming Greaves's election and shouting down criers attempting to proclaim Toplady, until the Duke of Newcastle quieted things down.[199] Tensions simmered in the city for weeks – Greaves and the Whig Sheriffs attended church in their robes of office, "mak[ing] it their business to incense the

[195] *The Case of the Burgesses of Nottingham in Reference to the Surrendering of their Charters, Truly Stated August the 21st, 1682* (London: Printed for Brabazon Aylmer, 1682), 2-4.
[196] "Surrender of Nottingham Charter" (9/18/1682) TNA, C 203/5; "Warrant for the Charter of Nottingham" (9/21/1682) TNA, SP 44/66, pp 139-40.
[197] "Leoline Jenkins to the Duke of Newcastle" (9/26/1682) TNA, SP 44/68, p 141.
[198] "Charter of King Charles II" (9/28/1682) in *Royal Charters Granted to the Burgesses of Nottingham, A.D. 1155-1712* (London: Bernard Quartich, 1890), 86-123.
[199] "William Toplady, Mayor [of Nottingham] and others to Brother Hall" (9/29/1682) TNA, SP 29/420, ff 191r-192r; *ST*, X: 30-96.

common burgesses against the magistrates."[200] The riots drew national attention to the charter conflicts. Tories like Roger L'Estrange condemned the "tumults and riots" as the actions of "two or three capricious dissenters" against "the major vote; the common good; and the regular proceedings of a community."[201] Whigs, too, watched the Nottingham conflict closely. When William Sacheverell filed a *scire facias* in the court of King's Bench against Gervas Wild to nullify the new charter, the London diarist Roger Morrice applauded him. "It is a very great and national concern that he is engaged in," wrote Morrice, and "it was altogether incredible that he should have proceeded so far."[202] Yet Morrice's hopes that Sacheverell might beat back the Tory tide were quickly dashed. Sacheverell and 21 other Whigs were indicted for riot and fined hundreds of pounds each, to discourage "the evil example of all others in like case[s]."[203] The Nottingham riots and Sacheverell's abortive *scire facias* marked the high water mark of popular resistance in the provincial boroughs – petitions, trials, and delays would continue, but violent street action in defense of old charters would more or less disappear.

For the government, the first phase of national rechartering was a period of experimentation and refinement, as the broad program Lord Chief Justice Francis North had laid out was streamlined and made practicable. Two refinements proved especially consequential. The first concerned the instruments of surrender themselves. From the beginning, the government recognized that changing a charter would require "a voluntary surrender of the magistrates and chief citizens."[204] Yet the exact form and contents of that surrender remained unclear and would be negotiated several times over the course of the Tory Reaction. The first instrument of

[200] "Alderman Hall to Serjeant Gervas Price" (10/23/1684) TNA, SP 29/421/1, f 50r.
[201] *Observator in Dialogue* #222 (10/12/1682); Andrew Browning, Mary K. Geiter and W.A. Speck, *Memoirs of Sir John Reresby, 2nd ed.* (London: Offices of the Royal Historical Society, 1991), 277.
[202] Goldie, *The Entring Book of Roger Morrice*, II: 349 (2/8/1682[/3]); "Newdigate Newsletter" (2/6/1682[/3]) FSL, LC 1334.
[203] *ST*, X: 35.
[204] "Leoline Jenkins to Herbert Aubrey" (6/23/1681) TNA, SP 44/62, pp 188-189.

surrender drawn up was for Hereford. When the city delivered its petition to the king for a new charter on March 3, 1682, Charles was doubtful that it constituted "a sufficient surrender in law." He ordered Attorney General Robert Sawyer to "prepare such an instrument of a surrender for them to affix their seal to, as will fully answer his … ends and theirs." The resulting instrument "surrender[ed] and yield[ed] up unto our sovereign lord the King" all "letters patents, powers, privileges, and immunities whatsoever, at any time or times heretofore granted to, or held or enjoyed" by the borough.[205] Jenkins, the government's primary interlocutor with local Tories, continued to claim "little experience about the surrendering of charters," in his correspondence with them, but as early as June he seems to have begun offering local loyalists copies of the Hereford instrument to use as a model. He sent the Duke of Newcastle a copy "that the town of Nottingham may, if they please, make use of," and he sent another to the Earl of Yarmouth for the benefit of Norwich.[206] When Joanna Brome printed the instrument in *The Proceedings of the Citizens of Hereford*, she assured readers that it was legally sound by noting that it had been "drawn by a very able lawyer."[207] Hereford's surrender was intended to be used as a template model for other cities to utilize, and throughout 1682 Tories in Whitehall and in several corporations attempted to use it in just this way.

Yet the Hereford instrument was also vulnerable to local challenge by opponents of surrender, particularly concerning corporate property. North, the architect of the crown's

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[205] *The Proceedings of the Citizens of Hereford*, 2-3; "Leoline Jenkins to the Attorney General [Robert Sawyer] (3/3/1681[/2]) TNA, SP 44/68, pp 37-8.
[206] "Leoline Jenkins to the Duke of Newcastle" (6/13/1682) TNA, SP 44/68, p 93; "Jenkins to the Duke of Newcastle" (7/4/1682) TNA, SP 44/68, p 98; "Robert Paston, Earl of Yarmouth to Rebecca, Lady Yarmouth" (9/22/1682) BL, Add MS 27,4478, f 132r. Yarmouth only mentions that Jenkins had sent a "draft," but a comparison of the Hereford instrument and the first Norwich draft suggests that Jenkins had provided him a copy of the Hereford one. Compare *The Proceedings of the Citizens of Hereford*, 3 to "A Copy of the Surrender of the Charters for the City of Norwich at an Assembly Held 21 September 1682" (9/21/1682) Norfolk Record Office – Norwich Branch, NCR 8c/14.
[207] *The Proceedings of the Citizens of Hereford*, 3.

corporate policy, had acknowledged the force of this argument in May, insisting that "good corporations" ought to "grant to the king all their lands and goods" along with their charters, "that there may be no escheat."[208] Whigs in Nottingham made the problem of escheats the centerpiece of their argument against surrender in Summer 1682. After the city's Tory leaders passed an instrument of surrender modeled on Hereford's in July, a group of opposition burgesses consulted with legal counsel and asked what would happen to the borough's property following the surrender, particularly considering that "most of their Town-lands (which are of great annual value) were given by private persons." The counsel advised that on surrender "the corporation that held [the property and existed] by such charters was dissolved" and that "as soon as such surrender was completed" the "heirs of those that gave those lands… [would] be entitled to the lands."[209] This was a powerful argument against surrender – Tories were increasingly willing to show their loyalty to their sovereign by submitting to rechartering, but they were unlikely to do so if it severely impoverished their boroughs. "All the king's counsel learned" in law, including the Lord Chief Justice of the King's Bench Edmund Saunders, Attorney General Sawyer, and Solicitor General Heneage Finch, agreed that the "want of a clause passing the lands" rendered Nottingham's first surrender "insufficient," and they accordingly drew up a new form of surrender for the borough.[210] The new instrument surrendered the charters alongside "all and singular the manors, messuages, lands, rents… tenements and hereditaments" possessed by the corporation.[211] Like the Hereford instrument before it, the instrument drafted for Nottingham was distributed to other boroughs as a model.

[208] "Observations Concerning Charters to Corporations" (May 1682) TNA, SP 44/66, p 90; Francis North, "Of Corporations" BL, Add MS 32,518, f 184v.
[209] *The Case of the Burgesses of Nottingham in Reference to the Surrendering of their Charters*, 2.
[210] "Leoline Jenkins to the Earl of Yarmouth [Robert Paston]" (9/26/1682) TNA, SP 44/68, p 141.
[211] "Surrender of Nottingham Charter" (9/18/1682) TNA, C 203/5.

The same week that the Nottingham instrument was drawn up Jenkins sent a copy to the Earl of Yarmouth for his use in Norwich.[212] A year later when the Bishop of Bath and Wells wanted to promote the surrender of the Wells charter, Jenkins could recommend the Nottingham surrender with confidence. "You need not doubt that the form is legal," he wrote, for the instrument had been drawn up by leading legal luminaries and had served the crown well in "several cities, for instance Norwich and Coventry, and several great towns such as Northampton and Nottingham."[213] By September 1682, the government had developed an instrument that could be deployed in corporations throughout England. It would serve as the sole model for surrenders for most of 1683, until the citizens of Bristol drafted their own instrument that surrendered "the governing part only." Afterwards, corporations would use the Nottingham and Bristol instruments according to local inclination. Jenkins sent both the Nottingham and Bristol instruments for the use of Great Yarmouth in 1684, noting that while both were sufficient the Bristol one "may be an answer to the malicious surmises that are spread abroad, as if the king had a design upon the lands and other estate of the corporation."[214] The process of refinement continued after the first wave of surrenders came to an end, but the Nottingham instrument nonetheless represented a major advance in standardizing the government's project of municipal reform.

The second development of the government's corporate policy over 1682 concerned the exact terms of the revised charters. The first surrender and rechartering effort of the Tory Reaction was Thetford, which received its new charter on March 6. Thetford's new charter contained a clause

[212] "Leoline Jenkins to the Earl of Yarmouth [Robert Paston]" (9/26/1682) TNA, SP 44/68, p 141.
[213] "Leoline Jenkins to the Bishop of Bath and Wells [Peter Mews]" (10/18/1683) TNA, SP 44/64, p 125.
[214] "[Herny Somerset] Duke of Beaufort to Leoline Jenkins" (9/23/1683) TNA, SP 29/432, ff 181r-v; "Surrender of Bristol Charter" (11/9/1683) TNA, SP 44/66, pp 366-7; "Leoline Jenkins to Earl of Yarmouth [William Paston]" (4/5/1684) TNA, SP 44/64, p 220.

"reserving to [the king] the approbation of the recorder for the future," an insertion consistent with most new charters since the Restoration.[215] The Hereford charter that passed the Great Seal on March 28 contained a similar clause, although slightly more expansive in terms of its reach – here, Charles reserved the "approbation of the High-Steward, Town-Clerk, and aldermen hereafter to be elected."[216] This was an innovation, and one in keeping with the way North's thoughts were developing at the same time, but it was not a massive one.[217] The newly-incorporated borough of Tavistock broke with this practice. When Charles approved a warrant for the village's new charter on April 26, he inserted a clause that "every alderman, assistant, recorder, and town-clerk to be chosen… shall continue during his Majesty's pleasure."[218] The shift from royal approbation at election to serving at royal pleasure profoundly altered the balance of power between king and corporation and changed royal oversight from an occasional to a constant feature. Similar clauses followed for other towns. The charter of Portsmouth (issued August 18) allowed the king to remove corporate officers at-will.[219] The charter for Andover (September 2) reserved a power to Charles his "heirs and successors the power of removing at any time the steward and deputy steward or town clerk."[220] Then, for Derby (September 5) the policy shifted again. Derby's new charter employed the approbation standard for the recorder and

[215] "Warrant for a Grant on the Surrender of all their Former Charters of a New Charter of Incorporation to the Borough of Thetford" (2/11/1681[/2]) TNA, SP 44/66, pp 61-62; Halliday, *Dismembering the Body Politic*, 212-214. Since the 1660s, new charters or reincorporations had reserved the approbation of elected recorders and town clerks to the king.
[216] "Warrant on the Surrender of the Charters of the City of Hereford" (4/13/1682) TNA, SP 44/66, pp74-5; "Charter of Hereford" (4/28/1682) in *Historical Manuscripts Commission, Thirteenth Report, Appendix, Part IV: The Manuscripts of Rye and Hereford Corporations; Capt. Loder-Symonds, Mr. E.R. Wodehouse, M.P., and others* (London: HM Stationery Office, 1892), 287. Janeway incorrectly reported that the new charter included the words "*Quandiu Nobis Placuerit*" ("as long as it shall be our pleasure"). *Impartial Protestant Mercury* #114 (5/23-26/1682).
[217] "Of Corporations" BL, Add MS 32518 ff 184r-v.
[218] "Warrant for a Charter to Tavistock" (4/26/1682) TNA, SP 44/66, p 80.
[219] Robert East, Ed., *Extracts from Records in the Possession of the Municipal Corporation of Portsmouth* (Portsmouth: Henry Lewis, at the Carion Printing Works, 1891), 607. It is not clear from this source which officers could be removed.
[220] "Warrant for the Incorporation of the Town of Andover" (8/30/1682) TNA, SP 44/66, p 135.

town clerk, while simultaneously granting the king "power to remove the justices [of the peace] within the said corporation, or such of them as we shall think fit."[221] Nottingham's charter (September 28) likewise required the "approbation and confirmation of the recorder and town clerk of our said town."[222] But these represented the last gasps of the approbation standard during the Tory Reaction. In October, Maidstone's charter reserved to the king "full power and authority… to amove and declare to be amoved, the mayor, recorder, common clerk, and either or any of the justice[s] of the peace of the town… at [our] will and pleasure."[223] For Norwich, too, the new charter reserved to Charles and his successors power "to displace any mayor, deputy mayor, sheriff, alderman, common councilman, justice of the peace, recorder, steward, coroner, or town clerk."[224] For the remainder of Charles II's reign, all new charters would include clauses giving the monarch power to remove virtually all corporate officeholders at will.

It is not clear who was responsible for this change. It is probably safe to assume that at-pleasure officeholding was first introduced in Tavistock's charter because it was a new incorporation. The village had no existing rights to municipal self-government, and so Charles and his ministers had more latitude to impose whatever terms they saw fit. What is more remarkable is that this same policy was recommended for all corporations, and that it came to encompass such a broad range of corporate officeholders. It was at odds with Francis North's suggestions in his memorandum on corporations from May 1682, in which he recommended a

[221] "Warrant for a New Charter to the Borough of Derby" (7/27/1682) TNA, SP 44/66, p 116; Robert Simpson, Ed., *A Collection of Fragments Illustrative of the History and Antiquities of Derby* (Derby: G. Wilkson and Son, 1826), 136, 145-6.
[222] "Warrant for Re-Incorporating Nottingham" (9/21/1682) TNA, SP 44/66, pp 139-140.
[223] William Roberts James, Ed., *The Charters and other Documents Relating to the King's Town and Parish of Maidstone* (London: J. Butterworth and Son, 1825), 148-149; "Maidstone Charter" (10/26/1682) Kent History and Library Centre, Md/IC5.
[224] "Warrant for a Charter for Norwich" (2/21/1682[/3]) TNA, SP 44/66, p 196; "Charter of Charles II" (3/22/1682[/3]) Norfolk Record Office – Norwich Branch, NCR 26a/26.

near universal approbation of corporate officeholders.[225] Yet even if North had initially opposed the idea, he nonetheless resigned himself to it quickly. In the six months between the surrender of Norwich's charter on September 29, 1682, and the issue of its new one on March 22, 1683, North was a constant presence at Whitehall.[226] During that time he rose in influence, becoming Lord Keeper of the Great Seal on December 20.[227] As Lord Keeper, North was the most honored secular official in the government.[228] He oversaw the Crown Office, the body responsible for drafting charters (according to warrants drawn up by the Attorney General), and he personally applied the king's seal to all charters. Despite this increase in North's influence at precisely the moment when the Norwich charter was coming under consideration, and despite the city's explicit petition for royal approval rather than at-will officeholding, the city's new grant employed the latter standard.[229] North would continue to serve as Lord Keeper for the remainder of the reign, during which time 51 municipal charters passed under his hand. The principal feature of these charters was the introduction of at-will officeholding. Absent additional

[225] "Of Corporations" BL, Add MS 32,518, ff 184r-v184v; "Observations Concerning Charters to Corporations" (May 1682) TNA, SP 44/66, p 90. North may have believed that the at-will standard was unnecessarily draconian and that corporations would be unlikely to surrender were this the consequence; if so, the standard might have been a suggestion of the king's other legal counselors, such as AG Sawyer or George Jeffreys, or even of political officials like Secretary of State Leoline Jenkins. This was the story told after 1688 in Tory apologia by North's younger brother. Roger North, *The Lives of the Right Hon. Francis North, Baron Guilford; the Hon. Sir Dudley North; and the Hon. And Rev. Dr. John North… together with the Autobiography of the Author*, edited by Augustus Jessopp (London: George Bell and Sons, 1890), II: 15, 67; Roger North, *Examen: or, an Enquiry into the Credit and Veracity of a Pretended Complete History* (London: Printed for Fletcher Gyles, 1740), 624-627. Paul Halliday follows Roger in this view, although he acknowledges they should be "taken with a grain of salt": *Dismembering the Body Politic*, 222, 228. For the reasons noted below, I am skeptical of the extent of North's opposition to this program, but establishing the idea's originator will require additional research.

[226] In this period the Privy Council met on 34 days. North was present at all but two. See TNA, PC 2/69, pp 551-665.

[227] "Lord Keeper Sworn" (12/22/1682) TNA, PC 2/69, p 602.

[228] The Lord Keeper carried out the responsibilities of the Chancellor when the latter post was vacant. Attendees at Privy Council meetings were listed in order of rank. Only members of the royal family and the Archbishop of Canterbury were ever listed above North.

[229] "Warrant for a Charter for Norwich" (2/21/1682[/3]) TNA, SP 44/66, p 196; "Charter of Charles II" (3/22/1682[/3]) Norfolk Record Office – Norwich Branch, NCR 26a/26. For Norwich's request for approbation, see "Petition of the Mayor, Sheriffs, Citizens and Commonalty of… Norwich" (9/29/1682) Norfolk Record Office – Norwich Branch, NCR Case 16d/8, f 100r; *London Gazette* #1772 (11/9-13/1682).

evidence, it is possible that North sealed each of these grants under protest. But he sealed them all the same.

Over the course of the first wave of surrenders, charter reform had developed a consistent rhythm. Tory townsmen, motivated by a desire to show their loyalty, to purge their Whig foes, and to promote royal authority, would compel their fellow common councilmen and citizens to surrender their city's charter. When necessary, they would call on the crown to bring royal pressure to bear, either through *Quo Warrantos* (as in Hereford) or statements of the royal will (as in Norwich). Formal surrenders would then be accomplished using instruments drawn up and circulated by government officials. By the end of 1682, the terms of these charters would require at-will officeholding for virtually all corporate officeholders, a policy that would hold through the remainder of Charles's reign. All told, the first wave of surrenders was a tremendous accomplishment. Yet resistance persisted. The two most contested surrenders of the first wave, Nottingham and Norwich, came towards the end of 1682, indicating that opposition to surrender was alive and well. Whigs and nonpartisan citizens in the towns continued to oppose surrender as an unnecessary, possibly illegal, sacrifice of cherished municipal liberties. Why did the trickle of initial surrenders in 1682 and early 1683 become a flood by late 1683 and 1684?

The Tories Triumphant, July 1683 – February 1685

Two major national political events in summer 1683 radically increased the pace of municipal charter surrenders. The first was Charles's victory in *Rex v. London*. On June 12 the justices of the Court of King's Bench delivered their judgement that London had violated the condition in law annexed to all corporations "for the good government of the King's subjects."[230]

[230] *ST*, VIII: 1272n.

The news of the judgement spread like wildfire throughout the king's dominions. The *London Gazette* dutifully reported that judgement had been given for the king.[231] A more detailed account of the judgement was printed by Langley Curtis.[232] Manuscript newsletters and correspondents seem to have transported the news most quickly, to locales throughout England and beyond.[233] The king's victory over the most powerful, ancient, and wealthiest corporation in his dominions sent shockwaves throughout the empire.

The ruling settled two legal questions that smoothed the way for the surrender of municipal charters in the final years of the Tory Reaction. The first had to do with the king's ability to seize corporate charters through *Quo Warranto*. In 1682 and early 1683, as the crown's new corporate policy extended throughout England by fits and starts, a handful of *Quo Warrantos* had gone out against municipal corporations. Several corporations, like Hereford, had surrendered their charters in response, but others like Oxford and Bristol dithered. Their hesitation may, in part, have been a result of the uncertainty over whether corporate charters were forfeit for abuse or misuse. Although this point had long been orthodox among English jurists, it had never received a hearing in a court of law, and many corporations proved unwilling to surrender while the crown's most powerful inducement to submission was depending before the court. The first aspect of the court's ruling in *Rex v. London* thus spoke directly to *Quo Warranto*'s capacity to seize franchises. On this "great preliminary point, whether a corporation aggregate… may be forfeited or seized into the king's hands" the court ruled "that it may, upon breach of that

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[231] *London Gazette*, #1833 (6/11-14/1683).
[232] *An Account of the Proceedings to Judgement Against the Charter of the City of London, as it was given in the Court of King's Bench, the 12 of this Instant June* (London: Langley Curtis, 1683).
[233] "George Newton to [his sister?]" (6/12/1683) Lincolnshire Archives, MON/7/14; "Thomas Fairfax to Sir John Reresby" (6/12/1683) West Yorkshire Archive Service, Leeds, WYL156/R/23, #20; "The Heads of What the Judges of the King's Bench declared at their Giving Judgement that the Charter of London was forfeited into the King's Hands" (6/12/1683) Bodleian Library, MS Carte 81, f 729r; "Jenkins to Lord Deputy Lieutenant of Ireland" (6/12/1683) Bodleian Library, MS Carte 216, ff 283-285v; "Ruling in Rex v. London" (6/12/1683) Massachusetts Archives, CVI: f 293r.

condition which the law annexes to it, which is a trust for the good government of the king's subjects."[234] Cities that may have wanted to follow London's example and contest the king's power to seize their franchises would now have to confine their rebuttals to the specific facts of their cases; the legal question had been settled. The news had a profound impact even in cities that had no action pending against their charter. In York, Sir John Reresby reported that the news of the judge's opinions made the citizens "very fearful that a *Quo Warranto* would issue forth against their charter."[235] York's anxiety points to the most significant consequence of the *London* ruling: it altered the expected value of resistance to the crown's new corporate policy. London, with all its resources, its age, the confirmation of its privileges by parliamentary statutes and *Magna Charta*, undoubtedly held its privileges more securely than any other corporation in the empire. With its loss, the prospects for successfully contesting a *Quo Warranto* in the king's courts were greatly diminished.

The second legal question was resolved implicitly, but it was hugely significant for all that followed. As we saw in the previous chapter, one of the central questions in the arguments before the king's bench was what, exactly, a corporation was. Solicitor General Heneage Finch and Attorney General Robert Sawyer had argued that a corporation was a "liberty and franchise" possessed by a group of subjects and capable of being relinquished, but in their arguments for the city Recorder George Treby and Henry Pollexfen had argued that it was "an invisible person and capacity only" and so could not be surrendered even if subjects were willing. The court did not explicitly refute the city's argument in their ruling, but rather took it as a foundational assumption that London, like any other corporation, was a "franchise and liberty," something that

[234] *ST*, VIII: 1271n-1272n.
[235] Browning, et al., *Memoirs of Sir John Reresby*, 303.

could be seized, yielded, or taken – that it was not a mere capacity, as Treby alleged.[236] In confirming the essence of corporateness as a franchise, the court tacitly granted surrender its imprimatur. The London decision thus confirmed the nature of corporations, their forfeitability for misuse or abuse, and the capacity of subjects to forfeit them to the crown. The main legal ambiguities that had served as barriers to surrender in 1682 and 1683 were thus resolved by the judgement in *Rex v. London*.

On June 12, 1683, the same day that the judgement against London came down, Secretary of State Leoline Jenkins met with a salter and Baptist from East Smithfield named Josiah Keeling. Keeling revealed that he had been part of a radical group that had plotted to assassinate the King and the Duke of York the previous March. Their plan had been to ambush the Stuart brothers on their return from the Newmarket races where the road passed by Rye House in Hertfordshire. Equipped with blunderbusses, muskets, and pistols, the plotters planned to block the road with a cart and fire on the king's carriage and guards from behind a wall beside the highway.[237] Their plans had been derailed by a fire in Newmarket that had caused the brothers to return to London early.[238] Yet the conspiracy remained alive throughout Spring 1683, as plotters in London, Bristol, and the West Country considered a variety of plans to assassinate the Stuarts or raise a general rebellion across England and Scotland. At the time of his disclosure, Keeling was involved in recruitment for an uprising in the city of London.[239]

As the conspiracy unraveled in the wake of Keeling's confession, a vast network of radicals operating throughout the kingdom came into view. Many of the figures who had masterminded

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[236] *ST*, VIII: 1087-1090, 1102, 1143, 1212-1213, 1216-17, 1271n-1272n
[237] "Information of Josiah Keeling" (6/12/1683), "A particular account of the Situation of the Rye-House" in Thomas Sprat, Ed., *Copies of the Information and Original Papers Relating to the Proof of the Horrid Conspiracy Against the Late King, his Present Majesty, and the Government* (London: Thomas Newcomb, 1685), 2, 135.
[238] "Examination of Robert West" (6/23/1683) in Sprat, *Papers Relating to the… Horrid Conspiracy*, 28.
[239] Richard L. Greaves, *Secrets of the Kingdom: British Radicals from the Popish Plot to the Revolution of 1688-89* (Stanford: Stanford University Press, 1992), 171-186.

the Rye House Plot were former parliamentarians with a history of opposition to the Stuart monarchy. Among these were Richard Rumbold, who had stood guard at the execution of King Charles I in 1649, John Rumsey, a former cornet in the New Model Army with connections to the Earl of Shaftesbury, and Thomas Walcott, a Captain-Lieutenant in Edmund Ludlow's regiment of horse.[240] Other prominent conspirators included Richard Goodenough, who as undersheriff of Middlesex from 1680-1682 had helped empanel the *ignoramus* juries that so incensed the Tories, the Oxfordshire lawyer Robert West who had been counsel for the defense of the "Protestant Joiner" Stephen Colledge, and the nonconformist clergymen, pamphleteer, and Shaftesbury-client Robert Ferguson.[241] A number of Whig nobles, including the Duke of Monmouth, the earls of Shaftesbury and Essex, and the lords Russell and Grey, were likewise implicated in the designs. In the ensuing months, the government arrested prominent dissidents throughout the kingdom and issued out warrants to search the houses of leading Whigs for weapons and papers.[242] By these means the Rye House plot became a reality in towns throughout England, as armed men rifled through the houses of local dissidents suspected of involvement in a plot to assassinate the king and plunge England into renewed civil war.

The exposure of the activities of a nationwide conspiracy of Whig radicals and dissenters to murder the Stuarts and bring in arbitrary republican government validated all the fears Tories had been warning of for years. The revelation of the Rye House Plot was a radicalizing event, leading even formerly sympathetic or neutral political figures to seek out tools for securing the kingdom

[240] Entries for each of these may be found in the *Oxford Dictionary of National Biography*: Robert Clifton, "Rumbold, Richard (c. 1622-1685)," September 22, 2005, https://doi.org/10.1093/ref:odnb/24269; Melinda Zook, "Rumsey, John (fl. 1660-1686)," January 3, 2008, https://doi.org/10.1093/ref:odnb/67382; Richard L. Greaves, "Walcott, Thomas (c. 1625-1683)," January 3, 2008, https://doi.org/10.1093/ref:odnb/67375.
[241] Entries for each of these may be found in the *Oxford Dictionary of National Biography*: Melinda Zook, "Ferguson, Robert (d. 1714)," November 14, 2018, https://doi.org/10.1093/ref:odnb/9325; Gary S. De Krey, "Goodenough, Richard (fl. 1671-1687)," May 21, 2009, https://doi.org/10.1093/ref:odnb/10967; Melinda Zook, "West, Robert (b. 1649, d. in or after 1712)," May 21, 2009, https://doi.org/10.1093/ref:odnb/39674.
[242] Greaves, *Secrets of the Kingdom*, 196-205.

against the Whig menace.[243] What could be done? Tories looked to the motivations of the plotters, where they were able to discover a throughline: the plotters had come together and resolved on rebellion because of the perception that their power in municipal corporations, particularly but not exclusively London, was fading. Initially, the testimonies revealed, this was how radicals in the city identified each other. Josiah Keeling had been brought into Richard Goodenough's confidence after confessing his belief that the "citizens of London… were like to be in slavery, and to lose our charter." Other conspirators agreed. Goodenough and John Row, former sword-bearer of Bristol, noted that unless an effectual rising was made "the king will take away your charter and then you'll be in a fine condition." Around Michaelmas 1682, testified Robert West, there was "a general discontent amongst [those of the City of London, that are commonly called Whigs" because the elections for Mayor and Sheriffs had gone against them, and they were "apprehensive of the loss of their charter." Shortly after the judgement was handed down, one plotter flew into such a rage "about the loss of the City charter" that he announced, "that he was one of the number of ten thousand men, which were designed to be ready at an hour's warning." The defense of the charter inspired intense passions among the radicals. When Keeling was mocked at a tavern, he countered angrily that he and his friends had a plan to "save the City Charter and the nation," a formulation that gives pretty good idea of the centrality of municipal autonomy to these radicals' motivations.[244] Nor were they only concerned with London. When the Bristol-based plotter James Holloway was captured on Nevis, his papers

[243] See for instance the case of the Bishop of St. Asaph as discussed in Tapsell, *Personal Rule of Charles II*, 86-89.
[244] "The Information of Josiah Keeling" (6/12/1683), "Information of Josiah Keeling" (6/23/1683), "Information of Joseph How Against Thomas Lea for Speaking of Dangerous and Seditious Words" (6/15/1683), "Examination of Robert West" (6/23/1683) in Sprat, *Papers Relating to the… Horrid Conspiracy*, 1, 7, 10, 27, 29. West repeated Keeling's line about saving "the city charter and the nation" during the trial of Thomas Walcott on July 12, the proceedings of which were subsequently printed. *The Tryals of Thomas Walcot, William Hone, William Lord Russell, John Rous, & William Blagg, for High-Trason, for conspiring The Death of the King, and raising a Rebellion in this Kingdom* (London: Printed for Richard Royston, Benjamin Took, and Charles Mearn, 1683), 16.

contained a fragment of charter lamenting the success of the first phase of charter surrenders. "People by fair promises, with which they have been so often cheated, have been lulled into a belief they should have far greater privileges [after surrender], and so have given them away." "Taking away charters," reflected Holloway one year into the government's new policy, was a "popish and arbitrary design," sure to reduce England to slavery.[245] The proximate cause for the Rye House Plot was that the Whigs were losing the battle for control of England's corporate governments. In their desperation, radicals turned to treason to stem the tide of Tory domination.

Charles distilled these testimonies in his *Declaration… concerning the Treasonable Conspiracy Against his Sacred Person and Government* on July 27. There had for some years been "a malevolent party" active in England, that had "made it their business to promote sedition… render our government odious" and "incite [the people] to a dislike and hatred of our royal person." For some time the factious had used "false news, libelous pamphlets, and other wicked arts" to deceive the people, but starting "about the beginning of October" 1682, "when the heads of the faction saw the magistracy of our city of London settled in persons of loyal principles, they became impatient, and fell immediately to consult of rising in arms."[246] Alongside publicly available reports of the trials and the warrants against Whigs throughout the kingdom, Charles's *Declaration* and the Rye House Plot made several points abundantly clear. First, enemies against the established government in church and state, republicans and nonconformists, were active throughout England. Dissolving parliament had not stopped their challenges to royal authority; it had simply driven them underground. Second, these enemies were desperate to retain their influence in municipal corporations, the primary forum remaining

[245] "Sir William Stapleton [Nevis] to Leoline Jenkins" (1/25/1683[/4]) TNA, SP 29/436, f 153r. Holloway's papers were enclosed alongside Stapleton's letter to Jenkins.
[246] *His Majesties Declaration to all his Loving Subjects, Concerning the Treasonable Conspiracy against his Sacred Person and Government lately discovered* (Edinburgh: The Heir of Andrew Anderson, 1683), 3-5.

to them where autonomy and independent privileges might enable them to challenge royal authority with impunity. Their desperation to maintain this control was so great that they would kill the king and his heir and throw the nation into renewed civil war. Third, and consequently, if the king's enemies were so desperate to continue to exercise power in England's corporations, then voluntarily surrendering corporate charters to the crown and inviting closer royal oversight was perhaps the single most effective means by which citizens could strangle the Whig threat and ensure the security of the realm.

When knowledge of the plot became widespread in June and July 1683, addresses poured into Whitehall testifying to the loyalty of subjects throughout the empire. Among these many testimonials, a handful of addresses from municipalities that had received new charters during the first wave way may have helped to promote further surrenders. In their Rye House declaration, the Common Council of Norwich rejoiced at Charles and James's "providential delivery out of the hands of a bloody sort of commonwealth-merchants; who have… thirsted after royal blood; and that they may ever be defeated of such their horrid antimonarchical conspiracies." Yet they lamented that by reason of the six-month delay between their surrender and the grant of their new charter, "some evil minded men" were "endeavoring to discourage other corporations to imitate our well-intended loyalty." The purpose of the address was to vindicate the surrender as an act becoming loyal subjects, particularly at a moment where such displays of loyalty were so needed. The surrender had been "not so much to serve our own interest as to avoid the least supposition of contest with your crown imperial, and to give the utmost demonstration of our loyalty." Other corporations need not fear surrender, Norwich suggested – by their new grant they received confirmation of "all our ancient rights privileges, and immunities" as well as "expressions of future favor." While "factious and superstitious men"

might censure the citizens "for being extravagantly loyal," the new charter proved the benefits of submission. "If it were possible to be guilty of excess in allegiance and gratitude to your sacred majesty, we would study to acquire the virtue and honor of such loyal extravagancy."[247] Tavistock's declaration of thanks to God "for His… miraculous preservation of your Majesty's royal person… from the machinations and hellish conspiracies of the long contrived fanatic plot" included discussion of the borough's new charter as well. The king's new charter had invested Tavistock with "sufficient legal power to punish the insolent opposition of malice we have met with from fanaticism, faction, and schism" and thereby enabled them "to prevent for the future" those conventicles and associations that strove "to undermine and subvert the best constituted government in the world."[248] Maidstone likewise condemned the "wicked" plotters alongside a reflection on their recent patent. "By your Majesty's gracious grant of a new charter," they wrote, "this corporation… bears the honorable character of the King's Town of Maidstone." They vowed to live up to that name, to be "constant in our duty; to stand by the crown in your Majesty's sacred person, and in the right of succession" and "to continue religion as established from fanatical attempts." The better to show their zeal and affection for the king and the established religion, the Common Council of Maidstone pledged "to oppose factious practices and aspiring rebels… in our little province" and to "discountenance the discontented under [our] government, and leave not dissenters their conventicles."[249] By these declarations, recently reformed corporations suggested that their surrenders provided an effective bulwark against the factious throughout the nation – surrender was not only a manifestation of loyalty, but a tool to secure the king and his loyal subjects against civil and religious sedition.

[247] "Minutes of the Norwich Assembly" (7/2/1683) Norfolk Record Office – Norwich Branch, NCR Case 16d/8; *London Gazette* #1840 (7/5-9/1683).
[248] *London Gazette* #1843 (7/16-19/1683).
[249] *London Gazette* #1855 (8/27-30/1683).

In the months after surrender, many corporations came to see the logic of this view. In those municipal corporations where Whigs had long thwarted efforts at municipal surrender, the Rye House plot revelations came as a great boon to the Tories. In 1682, Secretary Jenkins had found the people of Somerset "uneasy" and sunken into "refractoriness," particularly the citizens of Wells.[250] The machinations of several Tories in the city and county had secured a *Quo Warranto* in November, but the Whig mayor had greeted it with "stubbornness and irregular proceedings… in direct opposition to the interest of the King and the desires and endeavors of all the honest men of that body" who, according to one local Tory, were eager "to make a submissive regulation of their charter."[251] The recalcitrance of the city's mayor and a few Whig magistrates was sufficient to thwart efforts at surrender for the first half of 1683. Yet when the Peter Mews, the Tory Bishop of Bath and Wells arrived in the city in mid-July, he found the Whigs in retreat. "I never saw the country in a better temper," he wrote excitedly to Jenkins. "All people are highly sensible of this horrid design," and had become "as full of indignation against the traitors as they [lately] were of treason." The prospects for corporate reform were obvious. "The king can command nothing which will not be readily obeyed."[252] When the city's Whig mayor summoned the citizens to draft a loyal address following the revelations of the plot, Tories refused "unless [the Mayor and Whig magistrates] would agree also to make a submissive resignation of our charter… not daring to offer such an affront to your majesty, as to pretend loyalty, and at the same time, immediately to oppose you, or join with those who do."[253] Carried

[250] "Leoline Jenkins to Bishop of Bath and Wells" (11/23/1682), Same to Same, (1/6/1682[/3]) TNA, SP 44/68, pp 172-3, 182.
[251] "John Packer to Leoline Jenkins" (11/16/1682) TNA, SP 29/421/1, 30r[?]. The foliation for this volume is ambiguous.
[252] "[Peter Mews] Bishop of Bath and Wells to Leoline Jenkins" (7/14/1683) TNA, SP 29/428, f 337r.
[253] *London Gazette* #1847 (7/30-8/2/1683).

by a surge of local loyalism, the city elected a Tory mayor on Michaelmas, and within three weeks the city had sealed its instrument of surrender.[254]

A similar story occurred in Bridgwater. The city had been somewhat divided in the early years of the Tory Reaction, when they had submitted two addresses responding to the king's *Declaration* concerning the dissolution of the Oxford Parliament, one thanking the king for delivering the people from "the arbitrary impositions of unreasonable" Whig MPs, the other thanking him for resolving "to support the protestant religion, to extirpate popery, and [to] have frequent parliaments."[255] The Whigs were dominant in the city's government – the mayor had been "New England bred; and in actual arms against" Charles I and Charles II, and the city's recorder, John Malet, was the leader of the "cabal of fanatics" and an exclusionist MP who argued that the Duke of York's succession would "bring popery into the kingdom and subvert the protestant religion."[256] As late as June 1683, the leading Tory in the city, Ralph, Lord Stawell, complained that although the city had "forfeited their charter" by diverse violations, "the loyal party are all so poor, and few in number, that they cannot" bring it to a surrender.[257] Yet the tide seems to have turned quite suddenly in July, when the corporation met with the Bishop of Bath and Wells and Stawell to declare "that they had resolved to lay their charter at the king's feet." The reason for this about-face is not recorded, but it came just as the Bishop was noting the

[254] "[Peter Mews] Bishop of Bath and Wells to Leoline Jenkins" (10/1/1683), "Richard Hole, Mayor [of Wells] to John Packer" (10/14/1683) TNA, SP 29/433, ff 123r, 243r; "Leoline Jenkins to the Bishop of Bath and Wells" (10/18/1683) TNA, SP 44/64, p 125.
[255] "Address of the Loyal Subjects of Bridgwater to the King" (7/16/1681), "Sir Edward Phelipps to Sir Leoline Jenkins" (7/16/1681) TNA, SP 29/416, ff 116r, 117r; "Address of the Mayor &c of Bridgwater to the King" (Aug 1681) TNA, SP 30/G, f 731r. Charles approved the first declaration, but received the latter more cooly. "Leoline Jenkins to Edward Phelipps" (7/28/1681) TNA, SP 44/62, p232; "Leoline Jenkins to the Earl of Bridgwater" (1/3/1681[/2]) SP 44/68, pp 4-5.
[256] "William Massey and Valentine Francis [Bridgwater] to Jenkins" (3/3/1682[/3]) TNA, SP 29/422, f 220r; "Thomas Venn to Richard Newcourt at Doctors' Commons" (10/15/1681) TNA, SP 29/417, f 105r; "Information of Daniel Yates" (June 1683) TNA, SP 29/425, f 400r.
[257] "Lord Ralph Stawell to Jenkins" (6/18/1683) TNA, SP 29/425, f 44r.

"good temper" of Somerset, and it seems likely that the revelation of the plot had altered the balance of power within the city.[258]

The case of Bristol likewise illustrates how the plot accelerated the pace of surrenders in divided towns, although here the axis of division was unusual. In Bristol, Tories had long been in control of the city's government, having elected loyal mayors and MPs for years.[259] Yet the city's Tories were "not quite so well united," chiefly divided between the interests of the loyal sheriff John Knight the Younger and Mayor Thomas Earle.[260] Knight was the chief architect of the surrender, lobbying hard for a *Quo Warranto* as early as June 1682, a proposition Charles seems to have taken to by February 1683.[261] When the question of surrender came before the city's common council in April 1683, Earle's party opposed it out of "a jealousy of Sir John Knight's having too great a sway, if it were surrendered, and that it would be looked upon as an effect of his interest."[262] Ideology and interpersonal rivalry both affected the pattern of surrender. Yet the plot broke the deadlock, especially because many plotters had been active in the city.[263] In their address from August 2, the city's artillery company drew an unfavorable contrast with Earle's party when they pledged that "not one of us (though citizens of Bristol) are of those men, who

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[258] "[Peter Mews] Bishop of Bath and Wells to Jenkins" (7/14/1683) TNA, SP 29/428, f 337r.
[259] John P. Ferris, "Bristol" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/constituencies/bristol; "Sir Richard Hart [Brisotl] to Leoline Jenkins" (9/16/1682) TNA, SP 29/420, f 104r; *London Gazette* #1701 (3/4/1681[/2]); "Robert Yeamans [Bristol] to Leoline Jenkins" (9/30/1683) TNA, SP 29/433, f 75r.
[260] "[Henry Somerset] Marquess of Worcester to Leoline Jenkins" (9/13/1682) TNA, SP 29/420, ff 96r-v; "Sir Thomas Earle, Mayor of Bristol, to Jenkins" (6/3/1682), "Sheriff [John Knight] of Bristol to Leoline Jenkins" (6/8/1682) TNA, SP 29/419, ff 88r, 114r-115r.
[261] "Sheriff [John Knight] of Bristol to Leoline Jenkins" (6/8/1682) TNA, SP 29/419, ff 114-115r; "Leoline Jenkins to Attorney General [Robert Sawyer]" (2/24/1682[/3]), TNA, SP 44/68, p 211; "Attorney General Robert Sawyer to Leoline Jenkins" (3/7/1683), "Earl of Sunderland to Jenkins" (3/10/1683) TNA, SP 29/422, ff 243r, 255r.
[262] "[Henry Somerset] Duke of Beaufort to Leoline Jenkins" (4/1/1683) TNA SP 29/423, ff 104r-105r; "John Harris [Bristol] to Jenkins" (9/7/1683) TNA, SP 29/432, f 11r; "Edward Fielding [Bristol] to Jenkins" (1/31/1683[/4]) TNA, SP 29/436, f 189Ar; "John Davis [Bristol] to Jenkins" (2/4/1683[/4]) TNA, SP 29/436, f 240r; "John Hellier [Bristol] to Jenkins" (3/12/1683[/4]) TNA, SP 29/437, f 50r.
[263] "Information of Samuel Gale [of Bristol] Soap Boiler" (7/19/1683) TNA, SP/429, ff 100r-v; *London Gazette* #1863 (9/24-27/1683). Among those implicated were the city's Recorder Colonel Jonathan Ramsey [alias Romsey], Nathanial Wade, James Holloway, and the late swordbearer John Rowe.

dared entertain a thought of contesting the charter with your majesty, but were always ready to lay our interest in that… at your Majesty's feet."[264] The "loyal young men and apprentices" of Bristol likewise urged the common council not to "start back from our former principles and resolutions [of loyalty] for the sake of a charter," inviting their superiors to demonstrate their submission through surrender. Earle's party conceded to the inevitable. On September 26, the mayor and common council delivered a Rye House address expressing their "great joy and satisfaction" for the survival of Charles and Duke of York, and meekly excusing the "several disputes amongst us upon occasion of the *Quo Warranto* issued out against our charter" as debates "centering in loyalty." They concluded by asking the king to "order the governing part of this city for the future, as may be most agreeable to your royal inclinations."[265] In corporations where surrender had long been debated, the pressures to demonstrate loyalty following the Rye House plot proved a powerful argument for its proponents.

The revelation of the plot likewise inspired surrender in boroughs where no prior inclination is evident. Oftentimes, these surrenders were explicitly tendered alongside loyal addresses thanking God for delivering Charles and the Duke of York from the clutches of plotters. From the midlands, Warwick's address condemned the "indefatigable… endeavors" of the king's "implacable enemies," the nonconformists who foment "republican and antimonarchical principles in their conventicles." They promised to "defend and protect your Majesty and successors, from such and all other your majesty's enemies" but closed with an offer that "if we may be… less capacitated to perform what we have now promised, we shall be ready… to lay all our franchises and privileges at your Majesty's feet, to be disposed of according to your

[264] *London Gazette* #1848 (8/2-6/1683).
[265] *London Gazette* #1863 (9/24-27/1683). As noted above, the Bristol surrender was of the governing part of the charter only, not the whole charter.

Majesty's great wisdom and prudence."[266] Neighboring Stratford-upon-Avon could not "sufficiently express our detestation of the horrid conspiracy," but likewise declared their willingness to "unanimously lay our charters at your majesty's feet." They would "never stand in competition with our prince, but in all things freely submit our selves, as becomes dutiful and loyal subjects."[267] The Common Council of Stafford, possibly thanks to the influence of Lord Ferrers, submitted a similar address, condemning the "malice and devilish designs of that ungrateful antimonarchical party," and offering to "humbly prostrate ourselves, with our charter, at your Majesty's feet."[268] At the end of their Rye House address, the citizens of Poole declared their "great unhappiness" to lay under a *Quo Warranto* from the king, and vowed to "submit ourselves, in all things relating to our charter, to your majesty's good pleasure."[269] The pace of surrenders began to quicken as the Rye House plot made surrender a litmus test for loyalty, granting local Tories the power to crush their seditious neighbors and promote "good government" according to their principles.

A handful of addresses articulated this argument especially clearly, providing a theoretical account of the relationship between the plot, corporations, and charter surrenders. At the Suffolk assizes in Bury St. Edmunds, the High Sheriff, Deputy Lieutenants, JPs and Grand Jurymen opined that "it hath been the misfortunes of too many corporations to promote" the interests of conventiclers and republicans. They asked that henceforth the king's "inspection will hinder them from being any longer the receptacles of bad men, or engines to play republican zealots upon us."[270] When the citizens of Northampton surrendered their charter after a year of conflict

[266] *London Gazette* #1846 (7/26/-30/1683).
[267] *London Gazette* #1854 (8/23-27/1683).
[268] *London Gazette* #1857 (9/3-6/1683).
[269] *London Gazette* #1867 (10/8-11/1683).
[270] *London Gazette* #1852 (8/16-20/1683). Bury St. Edmunds would not surrender their charter until 1684, but the address of the county indicates the changing tide. "Corporation Book of Bury St Edmunds" Suffolk Archives – Bury St Edmunds, D4/1/2, ff 186r (7/17/1683), 189v (4/12/1684), 190r-v, (5/7/1684).

on July 25, they did so (according to their Rye House address) out of a recognition that "corporations, in general," and Northampton in particular, had "been the nurseries of sedition and schism… for want of the necessary inspection from above." They concluded their address about the plot with a hope that their new privileges would "enable us to live comfortably as a community, and… keep us within the bounds of loyalty and obedience."[271] Yet perhaps the clearest analysis about the relationship between corporations and plots came in the address of the bailiffs, recorder, and burgesses of Eye. Like Tories throughout the nation, the citizens of Eye focused their ire on conventicles. In these dens of sedition traitors had learned their hatred of the Church of England and their sovereign, the germs of the "hellish conspiracy" so mercifully avoided. From the same "root spr[a]ng that branch which bore the late horrid association, and in defense of it the ignoramus jury." Yet it was not conventicles alone that were responsible for harboring sedition. "Corporations," the Tories of Eye wrote, "are chargeable with part of our misfortunes, by shrouding of, and contesting for men of republican principles." For this reason, in the aftermath of the plot, the "submission of charters to your Majesty's regulation, is now become so necessary, that we fear it may create suspicion upon those who desire it not." They accordingly offered up their charter to the king, as a testimony of "the dedication of ourselves, and all we have, to the preserving your Majesty, your heirs and successors, with the religion and government established."[272] Eye made explicit the question that every corporation throughout England faced in the wake of the Rye House Plot: if republicans and fanatics relied upon corporations to protect them, what could loyal subjects do but submit to royal oversight? The changing legal calculus in the wake of *Rex v. London*, combined with the political changes

[271] *London Gazette* #1857 (9/3-6/1683); "Surrender of the Charter of Northampton" (7/25/1683) TNA, SP 44/66, p245; *An Account of the Surrender of the Old Charter of Northampton, and the Manner of their Receiving their New Charter* (London? 1683?).
[272] *London Gazette* #1852 (8/16-20/1683).

wrought by the revelation of the plot, opened the floodgates for a national surrendering campaign – of the 59 charters to pass the Great Seal during the Tory Reaction, 45 passed after July 1683.

Conclusion

The campaign to recharter England's municipalities was the most significant reform of the Tory Reaction. Its opening salvo, the *Quo Warranto* against London, had succeeded in cowing the mightiest corporation in the king's dominions, giving Charles unprecedented power to control the magistracy of the city. Beyond the capital, 59 English municipalities received new charters in the last years of Charles's reign, all of which seriously curtailed corporate autonomy by reserving power to the king to approve or remove key officers within the borough. Dozens of other corporate towns throughout England were awaiting new grants at the time of Charles's death, and in the first three months of James's reign a further 45 charters passed the Great Seal with similar terms. All told, over half of England's 200 corporate towns saw their charters reformed in just over four years, radically extending royal authority throughout the nation and driving the government's enemies out of power in the boroughs.

The success of this endeavor depended on local support for remodeling, support which found its most significant expression in the voluntary surrender of corporate charters. This support was largely the consequence of local engagement with national politics. As townsmen weighed the merits of submission to the king's corporate policy, they necessarily reflected on the virtues of Charles II's government and on the alternatives proposed by his adversaries. Debates over surrender were therefore inseparable from larger political issues surrounding sedition, dissent, and the royal succession. Local support for the government's rechartering campaign thus waxed as townsmen throughout the nation became increasingly convinced that the greatest

enemies of the protestant cause and the lawful monarchy were those nonconformists and republicans who had attacked both earlier in the century. No event did more to prove the Tory argument that Whigs were regicides and rebels than the revelation of plots to assassinate the king and the duke of York and launch a general rising throughout England and Scotland in June 1683 – the dramatic acceleration of surrenders in the following 18 months would have been inconceivable without this shift in national political attitudes. Thomas Sprat, Bishop of Rochester, affirmed this view in the official government history of the plot published in 1685. The monarchy had "gained a most considerable advantage" "by means of this very conspiracy," Sprat wrote:

> and it is, that so great a number of the cities and corporations of this kingdom, have since so freely resigned their local immunities and charters into his Majesty's hands; lest the abuse of them should again hereafter prove hazardous to the just prerogatives of the crown.[273]

Sprat recognized what more recent historians of the charter campaign have missed. The political horizons of England's townsmen were not parochial, and their ambitions and projects extended beyond the borders of their boroughs. The widespread surrender of municipal charters during the Tory Reaction was a consequence of a growing acceptance of Tory talking points. Local surrender was about more than a purge of local opponents; it was a front in the national conflict to protect the established government in church and state. This was the engine of its success, but it was also the source of its undoing. Tory townsmen had surrendered their patents to defend a particular conception of "good government" against perceived religious and civil innovation. Radical reform in the municipalities had been embraced to further a national conservative agenda. Yet James II would use the power bestowed by these new charters to pursue a bold

[273] Thomas Sprat, *A True Account and Declaration of the Horrid Conspiracy against the Late King, his present Majesty, and the Government, as it was ordered to be published by his Late Majesty* (London: Thomas Newcomb, one of His Majesty's Printers, 1685), 218-9.

Catholic absolutist project, in the process alienating many of the local Tories who had helped place corporate power in royal hands.[274] Yet all of that lay in the future in 1685. When James II took the throne, he inherited more secure royal authority than any monarch since at least his grandfather, in large part thanks to the submission of large numbers of English Tories. That submission had been bound up with the broader interaction between corporate law and politics that shaped the final years of Charles II's reign.

Political ideology did not only shape the contours of corporate reform in metropolitan England. The changes in corporate law developed in England to address the municipal problem sent shockwaves throughout the empire, where corporations had long played a major role in governing England's overseas dominions. The remaining two chapters focus on two especially consequential overseas corporations – the East India Company and the Massachusetts Bay Company – to see how the disputes over their privileges in the 1680s were shaped by the changes in English corporate law in the same period, and by empire-spanning disputes over the nature of "good government" as it related to religion, trade, and colonization.

[274] Many of the figures who had lobbied for surrender in 1684 would resign their posts in local government in response to James's "3 Questions" in 1687.

A Company "under the Government of England":

The Politics of the East India Company and the Alliance with the Crown, 1681-1685

Introduction

On August 9, 1683, just as Lord Keeper North's corporate policy was gaining momentum in the boroughs, the Governor and Company of Merchants of London trading into the East Indies received a new charter. This was hardly unique – in the final three years of Charles's reign, corporate charters passed the Great Seal at an unprecedented rate, where they served to reestablish royal authority over municipal corporations and strip them of their autonomy. Yet the charter granted to the East India Company (EIC) was different. This charter blessed the EIC with new jurisdictions and prerogatives in South Asia, empowering it to erect a court of admiralty in Bombay, coin its own currency, and enforce its exclusive trading privileges by commissioning armed patrols in the Indian Ocean. The crown's favor to the Company received further confirmation 18 months later, when the Court of King's Bench (with the urging of King Charles II) ruled in the Company's favor in *EIC v Thomas Sandys*, a landmark case which affirmed the legality of and royal support for exclusive trading privileges. Royal attitudes towards the East India Company during the Tory Reaction thus appear to have diverged dramatically from the corporate policy we have spent the last two chapters exploring: while municipalities saw their autonomy undermined, the wealthiest trading company in England's empire experienced a newfound royal munificence. Indeed, thanks largely to royal largesse, the years 1685 and 1686 mark the apex of the EIC's power, wealth, and influence in the 17th century. How could this be? Why did Charles II lavish such extensive privileges on the East India Company at precisely the moment that he was undermining the privileges of other corporations in England and its empire?

The overwhelming majority of the historiography on the late-17th century EIC has explained its alliance with the crown as a consequence of the Company's essential character as a trading concern and company of merchants.[1] These interpretations posit that the company was, firstly, solely motivated by commercial considerations, and, secondly, that company decision-making was largely indifferent to the broader political context in England. The East India Company, writes K.N. Chaudhuri, engaged in a "politics of trade," recognizing that "in England its monopoly and other commercial privileges were upheld by the state largely as result of the financial payments received by the Crown" and that "there was little the Company could do to reduce" this "political dependence" in the face of challenges to its privileges.[2] For Philip Lawson, state support constituted "the most important factor" in the Company's success during the Restoration period. While that support initially came from the Commons, by the 1680s the Crown had become the chief supporter, as Charles II and James II embarked on "an aggressive commercial policy overseas" as "a means to secure wealth and independence for the crown."[3] The EIC acquiesced in this policy, not out of any positive commitment to royal independence, but as the cost of doing business. Robert Brenner argues that "because the monarchical government had historically proved such a powerful supporter of the company merchants' interests," and of the East India Company in particular, "the government felt it could expect the

[1] The view of the 17th-century East India Company as single-minded in its pursuit of commerce is symptomatic of the broader historiographic division between a "first" British empire, focused on Atlantic settlement and Asian trade, and a "second" British empire, focused on territorial rule in Asia and Africa. On this point, see Philip J. Stern, "History and Historiography of the English East India Company: Past, Present, and Future!" *History Compass* 7, no. 4 (2009): 1149-1152.
[2] K.N. Chaudhuri, *The Trading World of Asia and the English East India Company, 1660-1760* (New Delhi: S. Chand & Co., 1978), 120-1. This is virtually the only thing Chaudhuri has to say about the EIC's relationship to English politics.
[3] Philip Lawson, *The East India Company: A History* (London: Longman, 1993), 45-6, 50.

City's merchants to grant it even unparliamentary taxes as a quid pro quo."[4] The basic exchange is summed up matter-of-factly by PJ Marshall, who writes that under Governor Josiah Child in the 1680s, "links with the crown became especially close." At this time, the English state gave its support "in prosecuting 'interlopers,' that is, private ships going to Asia in defiance of the Company's monopoly. The price of support was close identification with the government and large payments or loans on favorable terms, together with personal acknowledgements to members of the royal family."[5] To these scholars, the EIC's myopic focus on commercial profits necessitated cozying up to the crown. The payments and flattery afforded the royal family were essentially mercenary, one element of a transactional relationship between two distinct entities with different interests.

The core of this interpretation – that the EIC purchased royal favor to protect its monopoly – is undoubtedly correct. Yet scholars have nuanced this traditional view in two ways. The first qualification, suggested by Steven Pincus and James M. Vaughn, involves integrating the East India Company into the story of later Stuart politics. According to Pincus and Vaughn, the EIC in the 17th century was a far more sophisticated and conscientious political actor than the traditional view allows, even suggesting that under Child it shared a positive vision of political economy and territorial empire with the Stuarts. Pincus envisions Josiah Child as the foremost theorist of "Tory political economy," understood as a zero-sum competition over finite territorial possessions. According to Pincus, "James II… made political and ideological common cause with Josiah Child and his restructured East India Company. In tandem they were committed to a

[4] Robert Brenner, *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653* (London: Verso, 1993), 668. Although Brenner is chiefly concerned with the early 17th century, he argues that this status quo persisted until 1688. Ibid, 709-716.
[5] PJ Marshall, "The English in Asia to 1700" in Nicholas Canny, Ed., *The Oxford History of the British Empire I: The Origins of Empire* (Oxford: Oxford University Press, 1998), 281-2.

vision of wealth as a zero-sum game, a territorial imperial policy, and an anti-Dutch foreign policy."[6] Vaughn, building on these insights, shows how common ideology combined with a structural symbiosis between trading companies and monarchs made the EIC-Stuart alliance more than a marriage of convenience. Under the later Stuarts, he writes, the East India Company became "a bulwark of the absolutist state as well as a crucial component in the Crown's plans to establish an autocratic and tributary empire overseas. During the 1670s and 1680s the trading company transformed into a handmaiden of Stuart absolutism."[7] The EIC, Pincus and Vaughn have argued, was motivated as much by a commitment to Tory political economy as by a desire to protect their commercial monopoly.

If Pincus and Vaughn qualified the traditional exchange by emphasizing the influence of Josiah Child's political economic ideology and England's political context to the EIC's decision-making, Philip J. Stern has done the opposite, offering non-commercial motives within the company for its alliance with the later Stuarts. The East India Company, Stern shows, was far more than a "trading corporation." It was "a form of government, state, and sovereign" which "claimed jurisdiction over English trade and traffic in Asia, and thus over English goods, ships, and subjects throughout the Eastern Hemisphere." The Company, Stern relates,

> did what early modern governments did: erect and administer law; collect taxes; provide protection; inflict punishment; perform stateliness; regulate economic, religious, and civic life; conduct diplomacy and wage war; make claims to jurisdiction over land and sea; [and] cultivate authority over and obedience from those people subject to its command.

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[6] Steven Pincus, *1688: The First Modern Revolution* (New Haven: Yale University Press, 2009), 372-381 (quote 381). Pincus hints that this vision of political economy was dominant at court by the final years of Charles II's regime, as the arguments in *EIC v. Sandys* (decided at the end of Charles's reign) betray the same commitments.
[7] 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, no. 1 (2018): 107-8, 127-136. Vaughn likewise acknowledges a debt to Brenner. Ibid, 128-130, especially notes 84-85 and 90-91.

Moreover, Stern argues, the company did these things as a "company-state," a "body politic on its own terms" rather than as "an imitation, extension, or reflection of the national state." Stern's framework points to a different set of motives for the company-crown alliance, grounded less in a commitment to later Stuart absolutism – the Company, he argues, "was no Jacobite" – than in a desire to preserve the Company's autonomous identity and government from the dual threats of interlopers and expansionist royal ambitions. Payments to the crown were a way of protecting against the former while keeping the Company "clearly distinct from the crown and the English state."[8]

Although these interpretations of the EIC's relationship with the later Stuart state rest on competing understandings of the nature and implications of incorporation, they nonetheless offer a similar understanding of the political dynamics incorporation produced *within* the Company. For Vaughn, the EIC's reliance upon a royal charter for its monopoly privileges made its political alliance with later Stuart absolutism all but inevitable. "The [EIC's] alliance with the crown was fundamental to its entire business strategy and success," Vaughn writes.[9] In such a situation, the Company had no alternative but to placate the later Stuarts if it wished to survive. Child's ideological affinity for the later Stuart imperial project may have helped to cement this alliance, but there was no viable alternative – support for absolutism was baked into the constitution of the EIC. For Stern, the corporate form and the experience of self-government promoted "a shared set of political ideas and political culture that shaped policymaking" within the company-state. Chief among these was a common commitment to self-government itself, and to maintaining the company-state as an entity "independent from the government," a "sort of republic for the

[8] Philip J. Stern, *The Company-State: Corporate Sovereignty & the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011), vii-viii, 3-6, 46, 60, 144.
[9] Vaughn, "John Company Armed," 127.

management of trade."[10] Although Vaughn and Stern ascribe different significance to the corporate form, both see the company's internal ideology as downstream of its constitutional character. By virtue of this shared interpretive move, both bodies of scholarship suggest that, internally, the politics of the East India Company in the 1680s were marked by widespread consensus and uniformity. In both stories, the crown-company alliance becomes chiefly the consequence of structural factors inherent in incorporation.

In contrast to this approach, I argue that the politics of the East India Company in the early 1680s were defined by conflict rather than consensus. Incorporation united a group of subjects in defense of their common corporate privileges, but it did not necessitate any particular view of the nature of those privileges or the ends to which they should be put. In the early 1680s, two factions within the Company's governing body, the Court of Committees, advanced rival interpretations of the Company's political economy and its relationship to the king. One faction, associated with the Whig Deputy Governor Thomas Papillon, advocated for expanding the joint stock by bringing interlopers into the trade and discouraged extraparliamentary gifts to the crown. The other, associated with the Tory Governor Josiah Child, called for continued restrictions on the trade, harsh punishments for interloping, and an alliance with the Stuart monarchs. The East India Company, like other corporations in the 17th century, was not a political monolith; its façade of unanimity hid a turbulent sea of internal conflict that intersected with the broader currents of Restoration politics.

The story of the crown-company alliance of the 1680s is the story of how Child's faction triumphed over Papillon's. Understanding how they did so requires integrating the disputes

[10] Stern, *The Company-State*, 14, 50-53, 55. The last two quotes are from William Williams, an attorney for Sandys in *EIC v. Sandys*, rather than a company spokesperson. Nonetheless, Stern suggests Williams's critiques "in many ways… captured… what the Company had been arguing."

within the Company into the broader political history of the Tory Reaction – the triumph of Child's faction both relied on and reinforced royal power in the wake of crown vulnerability during the Exclusion Crisis. The chapter which follows begins by describing the East India Company's political behavior during the Exclusion Crisis, showing how the Company was not primed for an alliance with the crown before 1681. It then describes the threat posed to the Company in the early 1680s by interlopers and the dueling proposals of Papillon and Child for dealing with that threat. It explains royal support for Child's proposal, and the subsequent entrenchment of a company-crown alliance characterized by the exchange of cash gifts and the admission of Tory courtiers as freemen for new privileges and a confirmation of the Company's monopoly. It concludes with an examination of the political theory of that alliance as expressed in the arguments and rulings of *EIC v. Sandys*, arguments which reveal that the company had embraced the corporate policy of the Tory Reaction. The apotheosis of the company-crown alliance was the Company's willing affirmation of its subordination within the absolutist state.

The Politics of the EIC during the Exclusion Crisis

Explaining the development of the crown-company alliance requires establishing its point of origin. Several historians, most notably James Vaughn, have dated the origins of the alliance to the 1670s. While there had been significant "out-of-doors pressure" against the Company since the Restoration, it was only in the 1670s that "leading parliamentarians, many of whom would become members of the Whig Party" such as the Earl of Shaftesbury, "sought to curb the power and privileges of monopoly trading companies, which they viewed as vital in the Crown's efforts to gain financial independence from Parliament." During the Exclusion Crisis, writes Vaughn, "the Whigs placed opposition to the [East India] Company and other chartered

monopolies at the heart of their anti-absolutist programme." In addition to this external politicization, in the same period "an increasingly smaller group of Tory managers and shareholders" consolidated their control over the Company.[11] For Vaughn, by 1680 the EIC had been an ally of the Stuarts for years, and the Whigs had long been its enemies.

Vaughn is wrong on both counts. The East India Company in the late 1670s and early 1680s was not dominated by Tories; nor was its opposition distinctly Whiggish. Its leadership and propagandists were politically heterogenous and contained more than a few of the most influential Whig politicians in the county. The Company's opponents likewise spanned the partisan spectrum in 1680, a point that becomes clear when we contrast the East India and Royal African Companies' experiences of the Exclusion Crisis. Observers in 1680 would not have been able to discern that the East India Company was on the cusp of an alliance with the crown that would define its reputation for the next twenty years. Incorporation did not necessitate Toryism – the East India Company in the late 1670s and early 1680s was a politically heterogenous body whose leaders interacted with politics even as they recognized that the EIC lacked any partisan identity. The development of the East India Company's reputation as a Tory stronghold must be sought in the aftermath of the Exclusion Crisis, not before.

In the early 1680s, three of the most prominent Whigs in the City of London occupied leadership positions in the East India Company. Samuel Barnardiston, a longtime committee[12] who, as the Company's Deputy-Governor in the 1660s, had been imprisoned by the Commons as part of the conflict over *EIC v Skinner*, had served in November 1681 as foreman of the packed grand jury that declined to charge the Earl of Shaftesbury with treason. A lifelong Presbyterian

[11] Vaughn, "John Company Armed," 109.
[12] In the East India Company, a "committee" was an individual elected annually to the corporation's governing body, the "Court of Committees" analogous to a "director" or "assistant" in other corporations. In addition to the 24 committees, the Company was helmed by a Governor and Deputy-Governor.

and the son of a Parliamentarian during the Civil Wars, Barnardiston employed a minister ejected for nonconformity as his private chaplain on his estate in Suffolk.[13] John DuBois, another committee, and Thomas Papillon, the EIC's Deputy-Governor from 1680-1682, both served on Shaftesbury's grand jury as well. The two would run as a Whig slate for Middlesex's two shrieval offices in 1682, where they were bitterly opposed (and eventually beaten) by two Tory candidates, one of whom was the Levant Company merchant Dudley North (brother of the future Lord Keeper). Like Barnardiston, their backgrounds were nonconformist – both men were of Huguenot ancestry, and they attended the same French Church on Threadneedle Street.[14]

All three men served in the crisis parliaments, where they were leading proponents of the Duke of York's exclusion from the line of succession. DuBois had spoken for exclusion eloquently, expressing his anxieties about a popish successor in a handful of speeches. "There is no way to defeat [the papists'] execution of the plot," he argued, "like taking away their hopes" of coming to power, which could only be done "by some vote… [to] determine the succession."[15] Secretary of State Leoline Jenkins interceded with Papillon to convince him to accept alternatives to exclusion to no avail.[16] All three voted for exclusion multiple times. They

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[13] *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors, from the Earliest Period to the Present Time* (London: T.C. Hansard, 1810), VIII: 759 (hence *ST*); Paula Watson, "BARNARDISTON, Sir Samuel, 1st Bt. (1620-1707), of Brightwell, Suff. and Bloomsbury Square, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/barnardiston-sir-samuel-1620-1707.
[14] *ST*, VIII: 759; "E. Reresby to John Reresby," (6/24/1682) West Yorkshire Archive Service, WYL156/R/22, doc 22; "General Court Minutes" BL, IOR/B/36, ff 1v (4/20/1680); 111v (4/12/1681); Basil Duke Henning, "PAPILLON, Thomas (1623-1702), of Fenchurch Street, London and Acrise Place, Kent" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/papillon-thomas-1623-1702; Irene Cassidy and Eveline Cruickshanks, "DUBOIS, John (1622-84), of Love Lane, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/dubois-john-1622-84.
[15] Anchitell Grey, Ed., *Debates of the house of Commons, from the Year 1667 to the Year 1694* (London: D. Henry and R. Cave, 1763), VII: 238 (5/11/1679); 396 (11/2/1680).
[16] "Substance of a Discourse with Sir Lionel Jenkins for Near 2 Hours" (8/27/1680) Kent Library and History Centre, U1015/O43, doc 5; Basil Duke Henning, "PAPILLON, Thomas (1623-1702), of Fenchurch Street, London and Acrise Place, Kent" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/papillon-thomas-1623-1702; Irene Cassidy

demonstrated their Whig pedigree in other controversies as well. Barnardiston served as a member of the Committee for securing the nation against popery, and urged the impeachments of Danby and Sir Francis North, at this time Chief Justice of the Court of Common Pleas.[17] When Charles delayed the sitting of the Second Exclusion Parliament in 1679, Barnardiston was among the many Whigs who organized a petitioning campaign to compel the king to let parliament sit.[18] Such "tumultuous petitioning," a favorite strategy of the Whigs during the Crisis, occasioned a visceral response from the Tories, who condemned these petitions as an infringement on the royal prerogative in addresses "abhorring" the practice.[19] In Parliament, Papillon was a very active critic of one "abhorrer," Sir Francis Wythens, MP for Westminster. Wythens had moved the justices of the Westminster to sign an abhorrence, Papillon claimed, although "knowing it to be against the law, and the subjects' birthright" to petition for redress of grievances. When others stepped in to defend Wythens, Papillon rebuffed them. Wythens's crime was "betraying the liberties of the subjects of England, by petitioning to subvert the rights of the subjects."[20] These three men – leading figures in the EIC into the 1680s – were also extremely active Whig politicians, promoting the causes of exclusion, religious nonconformity, and petitioning for parliament to sit while protecting royal enemies from prosecution in the city. Papillon would spend the whole of James II's reign in exile in Utrecht, while Barnardiston would spend most of

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and Eveline Cruickshanks, "DUBOIS, John (1622-84), of Love Lane, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/dubois-john-1622-84.
[17] Paula Watson, "BARNARDISTON, Sir Samuel, 1st Bt. (1620-1707), of Brightwell, Suff. and Bloomsbury Square, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/barnardiston-sir-samuel-1620-1707.
[18] Mark Knights, *Politics and Opinion in Crisis, 1679-1681* (Cambridge: Cambridge University Press), 234.
[19] For conflicts between petitioners and abhorrers, see Knights, *Politics and Opinion in Crisis*, 227-305; Mark Knights, "London's 'Monster' Petition of 1680" *The Historical Journal* 36, no. 1 (1993): 39-67.
[20] Grey, *Debates of the House of Commons*, VII: 385-6, 388 (10/29/1680).

it in prison for seditious libel.[21] Among the most influential figures on the EIC's Court of Committees in the late 1670s and early 1680s were some of the most fiercely partisan Whigs in national politics.

Occasionally, these men used their leadership positions with the Company to further their political agendas. According to the French Ambassador in England, Paul Barillon, in October 1680 Charles's ministers had convinced him that the East India Company was prepared to lend him a "considerable sum," an action which would have allowed the King to delay Parliament's sitting by removing his reliance on parliamentary supply. Papillon appears to have used his position as Deputy-Governor to convince the committees to make a distribution to shareholders instead, whom Barillon expected would not be easily persuaded to make individual loans to the king.[22] In consequence, Charles was forced to allow the most hostile parliament of his reign to sit after over a year's delay, providing Papillon and other Whig MPs a platform and leverage to pressure the king to accede to the Duke of York's exclusion. The EIC's most overt political act during the Exclusion Crisis was thus its refusal to loan the king the money he expected and to force him to deal with parliament – hardly the act of a company firmly in the grip of Tory managers.

Nor were the ideas used to justify the Company's expansive monopoly privileges in the 1670s and early '80s distinctly Toryish. In fact, the EIC's most elegant propogandist in the 1670s was none other than Robert Ferguson, the Scottish presbyterian minister, Whig pamphleteer, and

[21] Perry Gauci, "Papillon, Thomas (1623-1702)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/21247; James S. Hart, Jr., "Barnardiston, Sir Samuel, first baronet (1620-1707)" in *Oxford Dictionary of National Biography*, January 7, 2016, https://doi.org/10.1093/ref:odnb/1461.
[22] "Barillon to Louis XIV" (10/7[or 17]/1680) TNA, PRO 31/3/146, f 107r-v; Knights, *Politics and Opinion in Crisis*, 22n77. This strategy of cutting off funding for a popish successor was openly discussed by Whigs throughout the nation. "Philo Treby to George Treby" (11/2/1680) Derbyshire Record Office, D239 MO, doc 1118.

future Rye House Plotter.[23] In 1676, an epistolary pamphlet entitled *Two Letters Concerning the East-India Company* condemned the EIC as "the monopoly of monopolies," a massive hindrance to trade which "restrains almost all English men from their lawful visiting and trafficking into so many parts of Asia, Africa, and America, as includes half the world."[24] The Company, seemingly at the urging of Thomas Papillon, paid Ferguson 20 guineas to draft a response, entitled *The East India Trade a Most Profitable Trade to the Kingdom, and best secured and Improved in a Company and a Joint Stock*.[25] For Ferguson, as for Josiah Child in the 1680s, a joint stock was essential for maintaining diplomacy with the princes of the Indies. Europeans could not trade in Asia, Ferguson wrote, "without making presents to the Kings, Princes, Governors, and great men at their first coming, and obtaining their license and permission." The Company had "been at vast charges" to establish and maintain the trade to these far flung regions, charges which individual merchants would neglect. "When every man is left to shift for himself," Ferguson noted, every merchant would mind "only his own private concern" and neglect "to mind the general security and privilege of the English trade." Worse still, opening the trade would cause the English to compete with themselves, giving "the Kings and governors of those countries, and other Nations… in the India trade… opportunities to make their advantages" on the English. If the trade was to be "secured and improved," advised the minister, it must be "by a company and a joint-stock."[26] The pamphlet was twice reprinted, in 1680 and 1696, seemingly through

[23] Melinda Zook, "Ferguson, Robert (d. 1714)" in *Oxford Dictionary of National Biography*, November 14, 2018, https://doi.org/10.1093/ref:odnb/9325
[24] *Two Letters Concerning the East India Company* ([London?]: 1676), 7.
[25] "Court of Committees Minutes" (2/7/1676[/7]) BL, IOR/B/34, f 94r; William Letwin, *The Origins of Scientific Economics* (Garden City, NY: Doubelday and Company, Inc., 1964), 36n67, 252.
[26] [Robert Ferguson], *The East India Trade a Most Profitable Trade to the Kingdom, and best secured and Improved in a Company and a Joint Stock* (London: [EIC], 1677), 15, 17, 18.

Papillon's efforts.[27] Even the most radical future Whigs could take up the pen to defend the East India Company's exclusive trading privileges in the 1670s.

Just as defenses of the East India Company could flow from future Whigs, so too could opposition to it span the ideological spectrum. The lone debate in the Commons on the privileges of the East India Company during the Exclusion Crisis reveals that the Company's opponents were not distinctly Whiggish.[28] Although the text of the petition from the Silk-Weavers of London that inspired the debate has been lost, it is clear from the speeches which followed that the Silk-Weavers considered the EIC's escalating silk imports to be a grievous oppression which undermined domestic manufacturing and English trade.[29] The petition inspired three recorded speeches in favor of constituting a committee to inquire into the miscarriages of the East India trade – two from the Whigs and exclusionists John Parkhurst and William Love, and one from the Tory anti-exclusionist John Basset. Despite their opposing politics in other respects, each of the speakers offered essentially the same critique of the East India trade; indeed, the speakers even shared many turns of phrase. The central problem was the cheapness of East Indian manufactures. Basset noted that "the people in India are such slaves, as to work for less than a penny a day; whereas ours here will not work under a shilling." John Parkhurst seconded Basset's observation, noting that as "the Indians work for less than a penny a day, and are not without materials at cheap rates, we may rather tremble to think, than easily calculate, what this trade may in time amount to." William Love likewise agreed that "the cheapness of wages and materials in the Indies must enable the Indians to afford their manufactured goods cheaper than

[27] A.F.W. Papillon, *Memoirs of Thomas Papillon, of London, Merchant (1623-1702)*, (Reading: Joseph J. Beecroft, Printer, 1887), 80, 90.
[28] This episode is central to Vaughn's argument, but he reads it differently than I do. Vaughn, "John Company Armed," 109n25.
[29] *Journal of the House of Commons* (London: His Majesty's Stationey Office, 1802), IX: 648-649 (11/9/1680). Hence *CJ*.

any we can make here." For this reason, Basset concluded, "not only the silk weavers, but most of the other trades of this nation" were "prejudiced by the consumption of goods manufactured in… East India, and brought hither." Like defenses, criticisms of the Company knew no party. Indeed, some Whigs believed that the attack on the East India Company was a distraction from their more central goals. The exclusionist Sir Francis Winnington expressed his desire that "we may not spend more mornings about Irish Cattle, nor East India Trade, until the business of the plot and popery be more off our hands." For Winnington, opposition to the East India Company was not at the heart of the Whigs' anti-absolutist program; it was a distraction from the more pressing issues of popery and arbitrary government, and ought to be dropped, as indeed it was.[30]

Outside of parliament the Company's enemies were no less heterogenous. In fact, the Company's greatest adversary in the early 1680s was the Tory Sir John Buckworth, Deputy Governor of the Company of Merchants of England trading to the Seas of the Levant. Buckworth's dislike of the Company was not motivated by any ideological opposition to trading via joint stocks – he had been an early investor in the Royal African Company, and had served several terms as that Company's Deputy Governor in the 1670s.[31] Nor was it a product of his dislike of the royal prerogative. Buckworth was one of London's most prominent Tory merchants. After Charles seized London's charter and gained control over the government of the City in October 1683, he appointed Buckworth as one of the city's aldermen.[32] At Buckworth's

[30] *The History and Proceedings of the House of Commons from the Restoration to the Present Time* (London: Richard Chandler, 1742), I: 409-413, 419.
[31] "Company of Royal Adventurers Charter" (1/10/1662[/3]) BL, Sloane MS 205, f 3v; KG Davies, *The Royal African Company* (London: Longmans, Green and Co., 1957), INDEX.
[32] "List of Persons to Supply the Place of the 8 Displaced Aldermen" (10/6/1683) TNA SP 29/433, f 185r; "Henry Crispe, Common Serjeant, to Jenkins" (10/16/1683) TNA, SP 29/433, ff 266r-v; "Sir Leoline Jenkins to Lord Dartmouth" (Oct 8, 1683) in *Historical Manuscripts Commission, Eleventh Report, Appendix, Part V: The Manuscripts of the Earl of Dartmouth* (London: Her Majesty's Stationery Office, 1887), 95-6.

death in 1687, he was remembered as "a faithful, a loyal, and a useful subject to his prince."[33] Into the early 1680s, there was nothing distinctly Whiggish about opposition to the EIC.

The contrast with the career of the period's other great joint stock, the Royal African Company, is telling. Unlike the EIC, which owed its first creation to a charter from Queen Elizabeth in 1601 and had done business under four monarchs and the Interregnum regime, the Royal African Company was a comparatively young institution.[34] It had received its first charter from Charles II in 1660, and been reconstituted in 1672 following its bankruptcy during the Third Anglo-Dutch War.[35] While the EIC was dominated throughout this period by merchants, the RAC was, from the beginning, a royal company – many of the leading investors were members of the royal family, and the Company's governor was none other than James, Duke of York, the king's Catholic younger brother and the figure around whom Whig anxieties would cohere during the Exclusion Crisis. Because of these close connections with the government, opposition figures and future Whigs had largely abandoned the RAC by the outbreak of the Exclusion Crisis in 1678. The Earl of Shaftesbury, who had been a member of the Company since its founding, sold his shares between 1675 and 1677, as did his secretary, John Locke. By the coming of the Exclusion Crisis, the RAC was generally recognized, in the words of one historian, as "a bastion of ultra-royalists," a creature of the Duke of York and the Stuart

[33] John Wilford, Ed., *Memorials and Characters Together with the Lives of Divers Eminent and Worthy Persons* (London: John Wilford, 1741), 604.
[34] Although Oliver Cromwell had declined to renew the Company's charter in 1653, the resulting shambles led the Lord Protector to reverse course and issue a new patent in 1657. See Lawson, *The East India Company*, 39-40. Throughout the period discussed in this chapter, the EIC's operating capital came from the 1657 subscription of £369,891. Chaudhuri, *The Trading World of Asia and the English East India Company*, 415.
[35] Cecil Thomas Carr, Ed., *Select Charters of Trading Companies, AD 1530-1707* (London: Bernard Quaritch, 1913), 172-177 ("Charter of the Company of Royal Adventurers Trading into Africa," 10/18/1660); 186-193 ("Charter of the Royal African Company," 9/27/1672); Davies, *The Royal African Company*, 57-63.

monarchy.[36] This perception shaped the partisan assault on the Company in Parliament during the Crisis.

The Parliamentary attack on the RAC grew out of an attack on another stronghold of courtiers and Yorkists: the Navy. York, who had served as Lord High Admiral until the recusancy laws had forced his resignation in 1673, continued to have many friends and allies in the Navy, including his replacement, Prince Rupert, and Secretary Samuel Pepys. In April 1679, upon receiving a petition from a Captain Roydon concerning his being turned out of his command, the Commons formed a Committee to inquire into the Miscarriages of the Navy. The Committee's composition reflects the diversity of views in the Habeas Corpus Parliament – in addition to such exclusionist stalwarts as Thomas Papillon, William Love, and Henry Mildmay, the Committee included figures like Sir John Trevor, an anti-exclusionist moderate Tory. Yet the bulk of the Committee was exclusionist and hostile to York's influence, and the Commons quickly tore the admiralty away from his allies by creating a new, parliamentary-dominated Admiralty board. Rupert and Pepys were ousted, and the pride of the English state fell under the power of the Whigs.[37]

The following month, the Committee began investigating "an information that hath been given in, touching the ship called the *Hunter*," a naval vessel loaned to the RAC in 1676 to

[36] Abigail L. Swingen, *Competing Visions of Empire: Labor, Slavery, and the Origins of the British Atlantic Empire* (New Haven: Yale University Press, 2015), 87, 96. "Over the course of the 1670s," writes Swingen, "the African Company came to be seen as not only a staunch ally of the crown, but intertwined with Crown policies, politics, and interests. The Company came to be closely associated with the Stuarts and their political ideologies, especially the belief shared by Chares II and his brother in the definitive authority of the Royal prerogative." See also Davies, *The Royal African Company*, 65; Holly Brewer, "Slavery, Sovereignty, and Inheritable Blood: Reconsidering John Locke and the Origins of American Slavery" *American Historical Review* 122, no. 4 (October 2017): 1053-1054n39. The Whig departure from the RAC should not be misconstrued as a Whiggish aversion to the slave trade – many Whigs turned interloper in this period. See William A. Pettigrew, *Freedom's Debt: The Royal African Company and the Politics of the Atlantic Slave Trade, 1672-1752* (Chapel Hill: University of North Carolina Press, 2013), 50.
[37] *CJ*, IX: 606 (4/28/1679); N.A.M. Rodger, *The Command of the Ocean: A Naval History of Britain, 1649-1815* (New York: Norton, 2004), 108-109.

monitor the West African coast. The *Hunter* had seized two interlopers – the *Anne* and the *John & Matthew* – amounting to an estimated £2,800.[38] It was likely these spurned interlopers who petitioned the Whig-dominated committee to investigate the African Company. On May 17, 1679, the Committee to Investigate Naval Miscarriages was charged with inquiring "likewise… into the miscarriages of the African Company."[39] The RAC, alarmed, fired off a petition to the Commons on May 27, setting forth that the complaints against it were "of great concern to the public," that the Company's justification "depends much upon the construction and validity of their charter," and asking to be heard at the bar of the House.[40] The scene was set for a showdown between parliamentary Whigs and the Company, but the proroguing of parliament later that day and its dissolution later that summer saved the RAC further trouble.

Yet the Company had received only a temporary reprieve; at the next sitting of Parliament all expected it would come under scrutiny again. In summer 1679, the Privy Council's Committee of Intelligence held up a deal between the Dutch West India Company and the Royal African Company, acquainting the Dutch ambassador "that a dispute being arisen about the validity of the English Company's charter, it did not seem very practicable to answer… till the said dispute were determined."[41] William Blathwayt expected the Royal African Company to be conciliatory in its dealings with Caribbean planters at the sitting of the Second Exclusion Parliament in October 1680, because the Company would "not be apt to make complaints in a season which is not very favorable to them, and when they expect to see their patent overturned by the Parliament."[42] In December and January, petitions against the African Company were read

[38] *CJ*, IX: 606 (4/28/1679); Davies, *The Royal African Company,* 106-7.
[39] *CJ*, IX: 624 (5/17/1679)
[40] *CJ*, IX: 634 (5/27/1679).
[41] "Original Minutes of Proceedings of the Privy Council, Committee of Intelligence" BL, Add MS 15,643, ff 12 (7/16 and 8/3/1679), 13 (8/7/1679), 19 (11/15 and 11/17/1679), 23 (12/8/1679), 34 (5/12/1680).
[42] "William Blathwayt to William Stapleton [Nevis]" (10/22/1680) Colonial Williamsburg, Blathwayt Papers XXXVII: folder 3.

in the Commons, leading to the establishment of a new committee to investigate their miscarriages. Like the naval committee in 1679, the members named to this committee were overwhelmingly Whigs.[43] In Africa House, the renewed petitions against the Company led to the creation of committees to defend the Company's interests in parliament and in print.[44] Yet the RAC's fortunes were little revived, and interlopers became increasingly bold on the West African coast. In Sierra Leone, two interlopers made "great brags of assistance that they expect from the Parliament," noting that "the Parliament gives permission to go trade at Guinea."[45] The Whig assault on the Royal African Company was unrelenting during the Exclusion Crisis.

The parliamentary disputes surrounding the RAC throw the politics of the EIC into sharp relief. During the Exclusion Crisis, Whigs in parliament repeatedly attacked the Royal African Company because they believed that it served as a unique prop to the Stuart's absolutist regime. By virtue of its royal leadership, the RAC had a clear partisan valence in English politics by 1679 that rendered it an obstacle to the Whig exclusionist program. The East India Company, meanwhile, lacked a clear partisan identity and was, if anything, vaguely associated with opposition to the Stuarts. On the lone occasion that the EIC's privileges were debated in the Commons, they were challenged by a politically heterogenous trio of MPs and before being tabled by a prominent exclusionist as a distraction. Contemporaries recognized the disparate treatment of these two bodies. The RAC's pamphlet defending its monopoly emphasized that the Company was no different from other "established fraternities or companies of Merchants" such as the "East India, Turkey, Hamburgh, Eastland, and Muscovia Companies."[46] That the RAC saw

[43] *CJ*, IX: 680 (12/16/1680); 700 (1/5/1680[/1]).
[44] "Minutes of the RAC Court of Assistants" TNA, T 70/79, ff 18v-20r (12/16/1680-1/7/1680[/1]).
[45] "Edmond Pierce [Bence Island in Sierra Leone] to RAC" (1/5/1680[/1]) TNA, T 70/1, f 42v.
[46] *Certain Considerations Relating to the Royal African Company of England, in which the Original, Growth, and National Advantages of the Guiney Trade, are Demonstrated: As Also, that the Same Trade Cannot be Carried on, but by a Company and Joint-Stock* (London: [RAC], 1680), 1-2.

fit to stress its similarity to other chartered trading companies underscored the extent to which its directors felt they were being singled out, as indeed they were. The parliamentary committees charged with investigating the RAC included many of the most prominent Whig merchants in the nation, including Samuel Barnardiston, John DuBois, and Thomas Papillon, none of whom seem to have viewed their service to the EIC and attack on the RAC as contradictory.[47] The EIC in 1680 was not viewed as an ally of the Stuart monarchs, and so the political opposition it aroused took a very different form.

Recognizing that the EIC was not a Tory body in 1680 has two important implications for our study of the crown-company alliance. First, methodologically, it shows that incorporation did not necessitate Toryism – support for absolutism or for visions of political economy reliant on royal support did not follow inevitably from the mere fact of a royal charter but needed to prevail *within* the company to make a crown-company alliance practicable. Second, it indicates that this political transformation must have occurred after the Exclusion Crisis, and thus shifts our attention to the early 1680s. It is there, in the company's intestinal conflict over how to respond to the growing threat from interlopers, that we must look for the origins of the crown-company alliance.

The Interloping Threat and the Company's Response

Despite the absence of sustained parliamentary opposition, the EIC began the 1680s more embattled than at any time since the Restoration. The foremost challenge to the Company in England came from one of its competitors, the Levant Company, and especially from its Deputy Governor, Sir John Buckworth. Buckworth's opposition to the EIC was grounded in commercial

[47] *CJ*, IX: 606 (4/28/1679); 680 (12/16/1680). Papillon and Barnardiston served on both committees, but DuBois served only on the second.

rather than partisan motives, and derived from recent changes to the structure of the East India trade that threatened the Levant Company's interests. Beginning in the 1670s, the EIC had begun importing large quantities of silk from Bengal, from a paltry 20 pounds in 1669 to a stunning 124,335 pounds in 1681.[48] This rapid increase in silk imports from South Asia, coupled with the EIC's efforts to divert the Persian silk trade away from the Levant and through Bombay, jeopardized the trade of the Levant Company, which consisted chiefly in the exchange of woolens, lead, and tin for raw silk.[49] Buckworth's assault on the EIC was motivated by the dynamics of business competition.

Buckworth and the Levant Company drew upon and united long-standing critiques of the East India Company's monopoly and trading practices to build a coalition of merchants and manufacturers to bring the East India colossus to heel. Manufacturers had long complained of the deleterious effect of the East India trade on domestic textile manufactures, but the EIC's rapid expansion in the 1670s raised these complaints to a fever pitch.[50] The Company of Silk-Throwers of London received a warm reception in the Commons when they petitioned against the EIC's imports in November 1680, partly owing to the support of London MP William Love, a longtime Assistant in the Levant Company. The EIC, according to Love, "will in a great time ruin the trade of our manufactures." For, "by bringing abundance of raw silk from the Indies," the EIC had ensured that "ere long we shall have no need of" Turkish silk. With no demand for silk, Love warned, the Levant Company would "not be able to send any cloths or other goods" there, and a much more valuable branch of the nation's trade – the export of domestic

[48] Chaudhuri, *The Trading World of Asia and the East India Company*, 345-348, 533. These were "great" pounds of 24 ounces each, but either way the relative increase is striking. The value of these imports had increased from £5 to £49,313.
[49] Alfred C. Wood, *A History of the Levant Company* (London: Frank Cass & Co., LTD, 1964), 103. According to Wood, raw silk "comprised about three quarters of [the Levant Company's] total volume of imports" in the 1670s.
[50] For a prior complaint against the EIC in Parliament, see the petition of the clothiers of Coventry, *CJ*, IX: 376 (11/15/1675).

manufactures – would be lost to benefit a handful of EIC shareholders.[51] The dismissal of the East India business the following day and the dissolution of Parliament not long after removed Parliament as a forum for complaint for the remainder of Charles's reign, but this did not silence complaints against the Company. Buckworth revived Love's comparison between the East India and Levant trading dynamics in a speech before the Privy Council in August 1681. The "Turkey Company," Buckworth wrote, had for "near one hundred years past constantly exported great quantities of the woolen manufactures, and other commodities of the growth of England, into Turkey, to the great enriching of this nation." The EIC, in contrast, "export from England immense quantities of gold and silver… in return of which their chiefest commodities are callicoes, pepper, wrought silks, and a deceitful sort of raw silk" not useful for manufacturing. In other words, the Levant Company's trade was exceptionally beneficial to England, keeping craftsmen and laborers employed in producing textiles for export. The East India trade, Buckworth concluded, was "an evident damage to the poor of the nation," certain to bring about "the ruin of many thousands of families." For the future, he recommended that the EIC be prohibited from bringing raw or wrought silks out of India into England, "which is not only a certain ruin to the Turkey trade, but consequently a prejudice to the whole nation."[52] Manufacturing was England's true interest, and the Levant Company and the Turkey trade supported that interest while the EIC undermined it.

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[51] "East India Company" (11/9/1680) *CJ*, IX: 648-649; *The History and Proceedings of the House of Commons*, I: 409-413; Eveline Cruickshanks and Basil Duke Henning, "LOVE, William (c.1620-89), of St. Mary Axe, London" in *History of Parliament Online*, accessed July 7, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/love-william-1620-89; Chaudhuri, *Trading World*, 347. An "Assistant" in the Levant Company was akin to a "Committee" in the EIC. Thus, of the two Whigs who spoke against the East India Company in Parliament during the Exclusion Crisis, one had a major conflict of interest.

[52] *The Allegations of the Turky Company and others Against the East India Company, Relating to the Management of that Trade* (London: [EIC?], 1681), 1-4; Narcissus Luttrell, *A Brief Historical Relation of State Affairs* (Oxford: Oxford University Press, 1857) I: 119; Chaudhuri, *The Trading World of Asia and the English East India Company,* 415.

The other half of the great coalition that Buckworth and the Levant Company assembled were merchants, many of whom felt shut out from the East India trade and eagerly sought to participate. Buckworth played a key role in whipping this group into coherence. In July 1681, he was the principal signatory to a petition from "many of the most eminent merchants, in and about" London, alleging that the EIC's charter "in its powers and management, is really prejudicial to his Majesty and his subjects."[53] The merchants complained that in the decades since the subscription of the joint stock in 1657 "the whole trade of" the "vast and rich countries" of the East Indies had "fallen into the hands of 10 or 12 men." By refusing to launch a new subscription, "thousands of able and active merchants bred up since [the EIC's] stock began" are "excluded [from] so great and rich a trade."[54] This exclusion was more than a lost opportunity for the many merchants so shut out – it was a deliberate shortchanging of England's national interest. A pamphlet by "H.K." published during this dispute made the case plainly. In the 24 years since the subscription of the stock, the East India trade had grown from 1/40th of England's commerce to 1/4. At the same time, the number of adventurers had decreased from 900 to 550. Such a miniscule number of merchants, possessing a combined stock of only £369,891, hampered "the enlarging [the trade] to sundry places in India." But, if the trade were opened more broadly, and the amount of the joint stock raised to £2 million, England would "employ… more men and ships in the Indies… augment custom to his majesty, and be of great advantage to his people in general."[55] By bringing together the manufacturing and merchant interest in a common coalition, Buckworth and the Levant Company were able to make a profound assertion about the best way to govern England's trade and serve the national interest. Manufacturers

[53] *The Impartial Protestant Mercury* #22 (July 5-8, 1681).
[54] *Allegations of the Turky Company*, 4-5.
[55] HK, *An Arrest on the East India Privatier as per advice and copy sent to its commander Sr. J. C. from H.K. near Hamburgh* (London: 1681), 3.

represented the national interest; the Levant Company, by exporting English manufactures, supported the core of the English economy and promoted the public good, whereas the EIC was a tiny consortium of merchants, undermining England's manufacturing sector and robbing the nation of bullion for private gain.

The EIC's leaders attempted to make a two-pronged response to Buckworth's allegations: first, by defending the value of the East India trade and the necessity of carrying it on via a joint stock; and second, by addressing the danger posed to the trade by so-called "interlopers." The Court of Committees invested the responsibility for defending the trade and the joint stock to Governor Josiah Child, who set forth the Company's case in a lengthy treatise purporting to demonstrate *That the East India Trade is the Most National of all Foreign Trades*. Child's treatise made three major arguments which together comprised the first prong of the Company's response. First, the Company's trade was immensely valuable to the nation. Child framed the objection of Buckworth and his fellow petitioners as a short-sighted inability to understand political economy. "Trading merchants," wrote Child, were "not always the best judges of trade, as it relates to the profit or power of a kingdom." Like "shopkeepers, artificers, clothiers, and other manufacturers" they were so "intent upon what makes for their peculiar gain or loss, that they have not leisure to expatiate or turn their thoughts to what is most advantageous to the kingdom in general." The national interest, Child argued, did not consist solely in the export of manufactures, bit in "increas[ing] the value of our English lands (the good plight whereof is the main basis of our wealth, freedom, and safety)." The mechanism by which this occurred was through men becoming "rich, [and] by the purchase of lands, becom[ing] of the same common interest with most of their country-men."[56] In other words, the value of English lands rose as

[56] Philopatris [Josiah Child], *A treatise wherein is demonstrated, I. That the East-India trade is the most national of all foreign trades, II. That the clamors, aspersions, and objections made against the present East-India company,*

Englishmen became wealthier, and the East India trade inarguably made many English subjects richer. By shifting the standards by which a trade's value could be assessed from the export of manufactures to the increasing value of land, Child challenged the Levant Company's claim that only the export of woolens contributed to national prosperity.

If this answered the critique of English manufacturers, what of the charge that the East India Company's joint stock was artificially narrow, and that the trade should be reconstituted under a regulated company? Child responded to this in two ways. First, he said, joint stocks were constitutionally superior to their regulated kin. Regulated companies, like the Levant Company, provided a governing superstructure to defend the collective interests of merchants but had merchants fund and manage their own voyages. As a result, they restricted the trade to a relatively small number of hands, barring "above 99 parts of 100" from engaging in overseas commerce. Elsewhere, Child estimated that if the East India trade were laid open in a regulated company, "the adventurers for India would certainly prove less by three quarters."[57] Joint stocks, in contrast, pooled capital for common voyages, enabling a much broader range of English people to contribute to national prosperity. They could accommodate "a far greater extension as to the number of traders… than any regulated company… because in a joint-stock, noble-men, gentlemen, shop-keepers, widows, and orphans, all the king's subjects… may be traders, and employ their stocks." The broad social foundations of the company made it "the best constitution that can be established… for the carrying on any trade for the public utility of the kingdom"

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are sinister, selfish, or groundless, III. That since the discovery of the East-Indies, the dominion of the sea depends much upon the wane or increase of that trade, and consequently the security of the liberty, property, and protestant religion of this kingdom, IV. That the trade of the East-Indies cannot be carried on to national advantage, in any other way than by a general joynt stock, V. That the East-India trade is more profitable and necessary to the kingdom of England, than to any other kingdom or nation in Europe (London: J.R. for the Honourable East India Company, 1681), 1-2. Another seemingly more common printing was done by "T.J. for Robert Boulter," a bookseller in Cornhill. The centrality of land to Child's political economy has been emphasized by Steve Pincus and James Vaughn. Pincus, *1688*, 366-399, esp 372-375; Vaughn, "John Company Armed," *passim*.

[57] [Child], *A Treatise Wherein is Demonstrated*…, 2, 30; *The Allegations of the Turky Company*, 7-8.

because it was the kingdom in microcosm; the East India Company's joint stock emulated the mixed constitution of England itself.[58]

Moreover, political and diplomatic conditions in India made trade via a regulated company impracticable. Here Child drew a contrast between the trading worlds of the Levant and South Asia. In India, he wrote, there were "above 100 kings and Rajas… governing with absolute power in their own dominions; and as many ports and places of trade: whereas in Turkey there are but two or three principal places of Trade and one prince, with whom his majesty by his ambassador may conveniently have his subjects there vindicated." The political diversity and geographic scale of the East Indies meant that Charles "cannot conveniently maintain an amity and correspondence by ambassadors" there. In such a case, where "trade must be maintained by force and forts on land," there was an absolute "necessity of a joint stock," because only a coordinated trade could prevent Englishmen from undermining each other and exposing the trade as a whole to challenges from South Asian sovereigns.[59] The English in India needed to be commercially and politically united in a chaotic arena of many sovereigns – a joint stock was, Child alleged, the only way to do this.

Child's contentions that the East India trade contributed to national prosperity and that it required a joint stock to manage it were orthodox positions within the Court of Committees. All agreed that English trade with Asia ought to be carried out under the Company's banner alone. Yet such a commitment did not answer the most important question: how was the unity of English merchants in South Asia to be achieved? What should be done about the interlopers? Here, the Court of Committees was bitterly divided. The Company's records largely obscure the

[58] [Child], *A Treatise Wherein is Demonstrated*…, 2, 30; *The Allegations of the Turky Company*, 7-8.
[59] [Child], *A Treatise Wherein is Demonstrated…*, 5, 35-36, 38. This was substantially the argument Robert Ferguson had made four years earlier. [Ferguson], *The East India Trade a Most Profitable Trade*, 15, 18.

controversy, reflecting an institutional preference common to all early modern corporations to minimize internal dissension and perform unanimity. Yet enough records remain to see the outline of the fissure which divided the East India Company against itself in 1681, opening the way to the crown-company alliance that would dominate the rest of the decade. One solution to the problem of interloping was associated with Deputy Governor Thomas Papillon. Papillon seems to have been the main proponent within the Court of Committees of a series of proposals in Autumn 1681 to bring would-be interlopers into the trade by bringing in new subscribers to the Company. The EIC ought to "lay open a book of subscription for all that will advance," Papillon wrote in November.[60] Doing so would remove the interloping threat for the foreseeable future by allowing the disaffected merchants to join in the trade. The existing shareholders would be compensated for their sacrifice by "a valuation of all their concerns" out of the Company's coffers and then joined with the would-be interlopers in "a new subscription."[61] Papillon's proposal aimed to expand the EIC's operating capital, increase the overall amount of English trade to South Asia, and solve its problems with interlopers in one deft maneuver.

Yet Papillon's solutions were not the only options on the table. The other proposals came from Josiah Child, the Company's Governor and largest shareholder. Child was an opponent of any attempt to reconcile with the interlopers, instead favoring a strategy of suppression backed by royal force. Since October 1680 he had sat on a subcommittee of the Court obligated to secure "the company in their rights and privileges of trade… against the aspersions, insinuations, and practices of interlopers."[62] In his public writings intended to defend the Company against

[60] "Copy of East India Petition to the King for a Proclamation" (11/11/1681) Kent Library and History Centre, U1015/O15/4. A transcript of this document is in Papillon, *Memoirs of Thomas Papillon*, 82-3.
[61] "Court of Committees Minute" (9/30/1681) BL, IOR/B/36, f 162r.
[62] "Court of Committees" (10/6/1680) BL, IOR/B/36, f 47r. The other initial members of the Committee were Major Robert Thomson and Joseph Herne; John Banks and James Houblon would be added on October 8. Ibid, 48r. These men would be allies of Child's throughout the 1680s.

Buckworth and the interlopers, Child expressed a willingness to bring more merchants in via "a new stock, provided we can come honestly by it… without injustice to the now adventurers… [or] detriment to the kingdom," terms apparently similar to those proposed by Papillon.[63] Yet privately Child seems to have opposed such proposals. In an address to the Privy Council on August 22, Child asked the king to "suppress that interloping trade" lest interlopers undersell the company and make it impossible to maintain the "forts, castles, soldiers, and otherwise" on which all English trade in Asia depended. Such a proposal, he suggested, should not be paired with calls for a new joint stock. "An old tree, that hath taken hold of the ground, and drawn strong roots, may stand and abide more shocks… than a young tree that is newly planted."[64] If a rapprochement and a new stock were off the table, then the only option was for the company to acquire the powers required to enforce its monopoly – powers that could only be acquired from the crown.

Initially, Papillon's proposals won more adherents among the Court of Committees. On September 30, 1681, after what the Court's minutebook labeled "a very great debate," the Court resolved to have "the Governor [Child] and Sir Joseph Ashe, or one of them" acquaint the king or Privy Council that the Company were "willing that this stock should be enlarged," a move that, according to the charter, required the king to discontinue the present stock.[65] Papillon's faction appeared to have won the day. Yet in Whitehall things stalled. In early October Ashe – not Child, who was, after all, opposed to the proposal – delivered the Company's resolution, alongside news of a gift of 10,000 guineas that Child had encouraged the Court of Committees to make to the king. The Privy Council eagerly received the latter, but informed Ashe that "twas not

[63] [Child], *A Treatise Wherein is Demonstrated…*, 10.
[64] *The Allegations of the Turky Company*, 14-15.
[65] "Court of Committees Minute" (9/30/1681) BL, IOR/B/36, f 162r.

fit to offer" the new subscription alongside "the present." They promised to acquaint the king with Papillon's proposal and inform the Company of his decision "in due time."[66] A month later, upon learning that two interloping vessels were outfitting for a journey to the Indies, Papillon drafted a petition to the king on behalf of the Court.[67] The petition complained of the scourge of interloping, observing that in recent years "some persons for their own private lucre and gain" had begun to send ships to the Indies. "Unless such interloping and irregular trading be restrained," warned Papillon, "it will be impossible for your petitioners to hold out and maintain the said trade." Yet this restraint was not meant to stand alone – suppression was a short term measure. Papillon's draft petition ended with a declaration of the company's "willingness… to lay open a book of subscription for all that will adventure" to take effect in three years "if your Majesty shall please… to direct to put a conclusion to the present joint stock." When the petition came before the general court, Child moved to strike the final clause. Although no answer to the initial proposal had been made public, Child claimed that it had no hope of succeeding because "Sir Jo Ashe upon the former application said the king would not do it." Repeating the calls for a new subscription would only "do us a mischief," Child asserted, an accusation that infuriated Papillon.[68] Yet Child's claim that the king had rejected the proposal carried the day. The Court of Committees struck the final clause from the petition, in the process changing the document from a proposal to incorporate interlopers into an unqualified call for suppression.

With hindsight, this moment stands out as the beginning of Child's triumph over Papillon, and thus as a crucial moment for the formation of the crown-company alliance. Yet the critical actor was neither of the East India shareholders, but Charles II, whose rejection of Papillon's

[66] "Court of Committees" (10/5/1681), (10/7/1681) BL, IOR/B/36, ff 164r, 165r.
[67] "Privy Council Register" (11/6/1681) TNA, PC 2/69, p 390.
[68] "Copy of East India Petition to the King for a Proclamation" (11/11/1681) Kent Library and History Centre, U1015/O15/4.

proposal made Child's policy of suppression the only viable answer to the interloping threat. A list of notes drawn up by Privy Councilor and future Lord Keeper Francis North at about this time reveals that some figures close to Charles believed he had *carte blanche* to transform the Company's government. According to North, it was "hardly imaginable that the East India Company should refuse to submit," to any of Charles's demands, "considering the advantages the King has over them, for they depend wholly upon his protection."[69] We are left to speculate why Charles proved unwilling to countenance a new, more expansive East India subscription in October 1681. Such an expansion would have enabled a considerable increase in the customs revenue and increased the Company's operating capital. Why did Charles oppose it? One factor was almost certainly a desire to preserve Child's leadership, particularly given that Child had just convinced the Court to grant the king a massive gift. Child was the Company's largest shareholder – in 1680 his holdings amounted to £17,000 worth of shares.[70] Opening up the trade to new subscribers risked a change in leadership towards a figure less sympathetic to the crown, and Charles's rejection of Papillon's proposal might have been designed to prevent that eventuality. Charles might also have been wary of disrupting a trade that seemed to be thriving – of uprooting an old tree with strong roots in favor of an untried sapling. Francis North admitted this, noting that any attempt to meddle with the EIC was a "dangerous experiment" that could jeopardize a trade in "good condition."[71] Child certainly feared this aspect of the proposal, and perhaps it shaped Charles's thinking, too.

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[69] North, "Objections to the Dissolving the East India Company and Considerations Thereupon, and the Advantages by Dissolving or Regulating them" (ca. Oct 1681) BL, Add MS 32,518, f 255r.
[70] Richard Grassby, "Child, Sir Josiah, first baronet (bap. 1631, d. 1699)" in *Oxford Dictionary of National Biography*, December 9, 2021, https://doi.org/10.1093/ref:odnb/5290; KG Davies, "Joint Stock Investment in the Later Seventeenth Century" *The Economic History Review* 2nd Series, 4, no. 3 (1952): 296.
[71] North, "Objections to the Dissolving the East India Company and Considerations Thereupon, and the Advantages by Dissolving or Regulating them" (ca. Oct 1681) BL, Add MS 32,518, f 255r. North ultimately dismissed these objections and favored expanding the trade, but they may have held sway with Charles.

One other possibility deserves mention. As has been noted, either solution to the interloping threat required royal support to be effective. Papillon's proposal envisioned this royal support as a one-off – once the king agreed to wind up the current joint stock, his power to determine the East India Company's fate would ebb, because the problem would have been largely addressed. Child's proposal meanwhile perpetuated the underlying jealousies which motivated interloping in the first place. As a result, it kept the Company dependent on royal favor to protect the Company's monopoly. An example of this pattern in action occurred the following year. In April 1682, "upon… several applications" by aspiring "new subscribers touching the East India trade," Charles ordered Child and Buckworth to attend him in Windsor to settle the question of a new subscription once and for all.[72] Charles expressed his "satisfaction… in the present management of [the EIC's] affairs" and refused to consider expanding the trade.[73] In the aftermath of this decisive rejection, several of the spurned would-be investors convened in London, where they resolved that "since they cannot at present come to a determinate issue," concerning a new subscription, they would "set forth several ships on private trade, commonly called interloping."[74] Charles's refusal to order a new subscription for the trade to the East Indies exacerbated the problem. Perhaps this was precisely what Charles wanted. Interloping was the engine of a positive feedback loop that drove the crown-company alliance. As interloping continued, Child was forced to seek additional support from the crown – support which could only be secured by a steady stream of gifts and displays of loyalty. Had Charles approved Papillon's proposal and allowed for the incorporation of interlopers, it is unlikely that a company-crown alliance would have emerged at all.

[72] *Impartial Protestant Mercury* #107 (4/28-5/2/1682); "Leoline Jenkins to Sir Josiah Child" (4/24/1682) TNA, SP 44/68, p 68.
[73] "Court of Committees" (5/3/1682) BL, IOR/B/37, f 5v.
[74] *Impartial Protestant Mercury* #114 (5/23-26/1682).

That alliance required the existence of a faction within the Company willing to collaborate with the crown. The interloping crisis of the early 1680s had produced such a faction around Josiah Child, whose policy of interloper suppression required royal collaboration to be successful. For the alliance to be actualized, Child's faction would have to win out within the Company's governing body. Charles's rejection of Papillon's proposal in November 1681 confirmed Child's dominance within the Company and ensured that his policy of suppressing interlopers would be the order of the day. It also ensured the Company's continued reliance on royal support for the next decade. By the end of 1681, the nucleus of the crown-company alliance had been established. The remainder of this chapter will analyze the workings of that alliance – what Child gave, and what he gained, through his collaboration with the crown.

Building the Crown-Company Alliance

For the last four years of Charles's reign, Josiah Child embarked on a project to court royal support for the East India Company and its exclusive trading privileges. The appeal to the crown had three major dimensions – financial gifts to the regime; personal outreach to Charles and leading Tories; and the purge of Whigs from positions of authority within the company. Each of these moves, made in the context of the Tory Reaction, worked to enhance the EIC's identification with later Stuart absolutism. They also yielded tremendous benefits for the Company, in the form of royal proclamations in favor of the charter, new grants expanding their jurisdictions, and royal commissions to Company ships to police the Indies. Yet by themselves these measures proved insufficient to safeguard the East India Company's authority overseas, and, as we shall see, the Company ultimately acquiesced in a more self-effacing interpretation of its place within the English constitution.

The most obvious route to ingratiate the EIC to the crown in 1681 was through the treasury. In the absence of parliamentary funding following the Oxford parliament, Charles's government was desperate for alternative sources of revenue. Much of the deficit was made up by customs receipts, which ballooned following the expiration of a prohibition on trade with France in March 1681.[75] So too did gifts from Charles's cousin, Louis XIV, who promised to pay Charles a pension of 5,000,000 livres over three years provided he refused to call another Parliament.[76] Yet while these removed the pinch, they failed to satisfy Charles's need for funds. The East India Company, under Child's direction, stepped in to fill the vacuum. On September 28, the Court of Committees resolved that "it is highly for the Company's service that a present be made unto the king's majesty of 10,000 Guineas." A week later, Child communicated this resolution to the General Court in a prepared speech. God had been "pleased… wonderfully to bless this stock… with a very considerable increase," Child began, exalting it "far beyond any trade that is driven in Europe." That this trade flourished, even as it became "the envy of many merchants, both at home and abroad" was thanks to "the singular favor, countenance, and assistance" which the King had provided "upon all occasions." In recognition of this royal support, Child esteemed it "a duty incumbent on the Company to make some grateful acknowledgement to his Majesty by way of [a] present." This sum, which amounted to at least 2.7% of the EIC's operating capital, was an enormous outlay for a company which perceived itself under constant threat in this period. Yet the assembled freeman, recognizing the advantages

[75] C.D. Chandaman, *The English Public Revenue, 1660-1688* (Oxford: Clarendon Press, 1975), 34-36.
[76] Paul Barillon, "Convention verbale arrêtée le 1 Avril 1681," reproduced in David Hume, *The History of England, from the Invasion of Julius Caesar to the Abdication of James the Second, 1688* (Philadelphia: J.B. Lippincott, 1868), VI: 279; John Dalrymple, *Memoirs of Great Britain and Ireland* (London: W. Strahan and T. Cadell, 1773), II: 301; Clyde L. Grose, "Louis XIV's Financial Relations with Charles II and the English Parliament" *The Journal of Modern History* 1, no 2. (June 1929): 200-201.

Child's suggestion might provide, duly agreed.[77] A year later Child, once again elected Governor, moved for another present of 10,000 Guineas, noting that it had "pleased God to continue the affairs of this stock in prosperous condition, and that much of the success is to be attributed to the princely favor and furtherance vouchsafed by his majesty upon all occasions."[78] In these speeches, Child repeatedly underscored the EIC's dependence upon royal favor, and the need for company reciprocity. These contributions to the royal treasury insulated the crown from pressures to call another Parliament, helping the merry monarch achieve a level of independence not seen since the 1630s. By 1683 the practice had become routine enough that Laurence Hyde, the Earl of Rochester and First Lord of the Treasury, could write to EIC governor John Banks requesting that "in regard of his Majesty's pressing occasions for monies, the Committees would make their present of 10,000 Guineas," directing that it be paid either to Mr. Charles Duncomb, cashier of excise, or the Exchequer.[79] Annual gifts from the East India Company became a small but expected part of Charles II's balance sheet in the final years of his reign, implicating the company in the development of later-Stuart absolutism.

Child supplemented cash donations to the treasury with more subtle means of currying royal favor. He embarked on a campaign to meld his interest, and that of the Company, with that of the royal family and the Tories. The most intimate element of this was the marriage of Child's daughter, Rebecca, to the Tory MP Charles Somerset, o0n June 5, 1682.[80] Following the

[77] "Court of Committees Minutes" (9/28/1681); "General Court Minutes" (10/5/1681) BL, IOR/B/36, ff 162v, 164r. Golden Guineas were theoretically valued at 1 pound sterling, but rising costs of gold relative to silver during Charles's reign meant they typically traded above this value.
[78] "General Court Minutes" (9/13/1682) BL, IOR/B/37, f 38v.
[79] "Court of Committees Minutes" (8/15/1683) BL, IOR/B/37, f 161v; W.A. Speck, "Hyde, Laurence, first earl of Rochester (bap. 1642, d. 1711)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/14332; Paula Watson, "DUNCOMBE, Charles (1648-1711), of Lombard Street, London and Teddington, Mdx." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/duncombe-charles-1648-1711.
[80] Richard Grassby, "Child, Sir Josiah, first baronet (bap. 1631, d. 1699)" in *Oxford Dictionary of National Biography*, December 9, 2021, https://doi.org/10.1093/ref:odnb/5290; John P. Ferris, "SOMERSET, Charles, Lord

dissolution of the Oxford Parliament, Somerset had taken an active role in the persecution of dissenters in Gloucester, where he proposed an order pursuant to the King's wishes that "the laws against dissenters, both papists and sectaries, [be] put in execution."[81] By August 1681 he was a recognized ally of the Court, with Jenkins writing that he had "show[n] himself so worthy of such a father, and of so illustrious a house" by his service to the king.[82] As Jenkins's words suggest, the real value of the marriage came from the connections it brought Child with Somerset's father Henry, Marquess of Worcester. Worcester was a prominent courtier who had drawn the ire of Whigs in the Commons for "the intimacy between him and the Duke of York."[83] Marrying into the Somersets gave Child a direct line to the heir to the throne and unprecedented access to power at Whitehall. The wisdom of the match for Child was proved in December 1682, when Henry was created Duke of Beaufort for his loyal service to the crown (Charles became Marquess of Worcester).[84] These personal connections to the court helped to secure Child's position as the foremost broker between the Stuarts and Leadenhall Street. One of his opponents, the East India merchant Nathaniel Cholmley, complained that "Child managed totally by the interest of his son in law Lord Worcester and his Father Duke of Beaufort, who he has brought deep into stock together [with] all others of grandees." By placing himself at the center of Company-Crown interaction, Child had become the indispensable "spring that moves all."[85] The crown-company alliance was facilitated by, and entangled with, a Child-Somerset alliance.

Herbert of Raglan (1660-98), of Troy, Mon. and Badminton, Glos." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/somerset-charles-1660-98.
[81] "Lord Herbert to [Secretary Jenkins] (1/14/1681[/2]) TNA, SP 29/418, f 48r.
[82] "Secretary Jenkins to [Henry Somerset] Marquess of Worcester" (8/13/1681) TNA, SP 44/62, p 257.
[83] "Diary of a Parliament" (Jan 7, 1680/1) in *Historical Manuscripts Commission, Twelfth Report, Appendix, Part IX: The Manuscripts of the Duke of Beaufort, K.G., The Earl of Donoughmore, and Others* (London: Her Majesty's Stationery Office, 1891), 114.
[84] Molly McClain, "Somerset, Henry, first duke of Beaufort (1629-1700)" in *Oxford Dictionary of National Biography*, October 3, 2013, https://doi.org/10.1093/ref:odnb/26009.
[85] "Nathaniel Cholmley to Mr. Mohun" (12/30/1684) North Yorkshire Archives, ZCG V 2/3 (unfoliated); "Nathaniel Cholmley to Mr. John Heathfield" (1/18/1685[/6]) North Yorkshire Archives, ZCG V 2/3 (unfoliated).

Child supplemented these marital maneuvers with other ways of bringing leading political figures of the Tory Reaction into the Company. On December 6, 1682, the Court of Committees ordered that Sir George Jeffreys, Chief Justice of Chester and a fiery defender of the royal prerogative, be granted freedom of the company *gratis*.[86] This decision would pay dividends in 1683, when Jeffreys would be made a Privy Councilor and then appointed Lord Chief Justice of the Court of King's Bench. The adventurers even brought the Duke of York in as a shareholder. Over the course of 1684, the Duke received or purchased £3,000 worth of stock in the Company, a move which led the Company to expect favorable treatment on his accession to the throne.[87] The Company reached out to Charles directly as well. In February 1683, Charles II was treated to a lavish feast and the opportunity to witness the launching of a massive 700-ton ship fitted out for the East Indies. According to one newsletter writer, the king was even invited to name the ship, which he dubbed "the Royal Charles, as being himself part owner."[88] At the same celebration, Charles demonstrated his approbation of the Company's conduct by knighting the ship's captain, Thomas Grantham, and several of the Company's leading merchants.[89] Through the efforts of figures like Child, the interests of the crown and leading courtiers were becoming bound up with those of the East India Company in the early 1680s.

Cozying up to the crown and leading Tories was only one part of the Company's political strategy. Another major element, the purge of the Company's Whigs, came at the annual election in April 1683. Nine of the Company's 24 committees lost their posts, including four –

[86] "Court of Committees" (12/6/1682), "Court of Committees" (12/12/1682) BL, IOR/B/37, ff 92v, 95r. Charles Somerset, newly created Marquess of Worcester and Child's son in law, received his freedom *gratis* at the same time.
[87] "Court of Committees" (4/30/1684) BL, IOR/B/38, f 2r; "East India Stock, &c., Possessed by the Late K. James" (5/28/1689) *CJ*, X: 154-5; "London to Bay of Bengal" (2/13/1684[/5]) BL, IOR/E/3/90, f 262r; Stern, *The Company-State*, 59.
[88] "Newdigate Newsletters" (2/20/1682[/3]) Folger Shakespeare Library, LC 1340.
[89] "Newdigate Newsletters" (2/22/1682[/3]) FSL, LC 1341.

Samuel Bernardiston, Humphry Edwyn, Thomas Papillon, and Jonathan Morden – who had served on Shaftesbury's *ignoramus* grand jury.[90] Barnardiston and Papillon, as we have seen, had long been servants and leading committees in the Company – their ouster did not reflect a lack of confidence in their commitment to the trade. Contemporaries had no problem recognizing the coup for the partisan purge it was. Prior to the announcement of the election results, one newsletter writer observed that "tis generally said that all those termed Whigs will be left out," while in Whitehall Jenkins learned that "most of the Whigs are left out of the East-India Council."[91] The point was underscored with the announcement of the new figures brought in to replace the leading whigs. The Tory Marquess of Worcester, Child's son in law, was one, as was Benjamin Bathurst, a longtime RAC investor whose loyalty to the crown would earn him an appointment as Alderman of London in October 1683.[92] Investors in London recognized the significance of Child's putsch, and the likely benefits it would bring to the EIC. In the week after the public announcement of the Whigs' ouster, the Company's actions doubled in value to £250.[93] The purge of the Whigs made clear that the evolving terms of access and the development of the Company's partisan identity. In the polarized partisan environment of the Tory Reaction, the presence of Whigs on the Company's Court of Committees was an obstacle to alliance with the crown. Yet it was also an opportunity to express the Company's absolute loyalty

[90] "General Court Minutes" (4/17/1683) "General Court Minutes" (4/20/1683) BL, IOR/B/37, ff 134v-r; "Newdigate Newsletters" (4/21/1683) FSL, LC 1366.
[91] "Newdigate Newsletter" (4/19/1683) FSL, LC 1365; "Henry Crispe, Common Serjeant [of London] to Jenkins" (4/21/1683) TNA, SP 29/423, ff 264r-v.
[92] "Henry Crispe, Common Serjeant, to Jenkins" (10/16/1683) TNA, SP 29/433, f 266r-v; "Sir L. Jenkins to Lord Dartmouth" (10/8/1683) *HMC Manuscripts of the Earl of Dartmouth*, 95-6; J.S. Crossette, "BATHURST, Sir Benjamin (c.1639-1704), of Paulerspury, Northants. and Westminster", in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/bathurst-sir-benjamin-1639-1704.
[93] "Newdigate Newsletter" (4/28/1683) FSL, LC 1369. The previous week, the day after the announcement of the Whigs' ouster, the same newswriter had reported that the EIC's actions were "somewhat advanced, being now worth £130." "Newdigate Newsletter" (4/21/1683) FSL, LC 1366.

to the regime, a chance to put partisan identity at the core of the Company's public image by purging the politically disaffected. Together, these acts – the gifts to the crown during the Tory Reaction, the coziness with Tories and Courtiers, and the purge of longstanding committees for their political beliefs – evince a deliberate strategy by "Child and his party" in the Court of Committees to secure royal favor against interlopers by declaring political allegiance.[94] They amount, in short, to a prolonged embrace of Toryism and the authority of the Stuart monarchs. The Company could no more escape the whirlpool of national politics in the 1680s than London could.

Quashing the interloping threat required, in the first place, a confirmation of the company's legitimate right to the exclusive trade. The Company first sought such a confirmation in the form of a royal proclamation in November 1681. In response to a report that two ships were outfitting on an interloping voyage to the Indies, the Company petitioned the crown for assistance. (This was the same petition to which Papillon had appended his offer of a new subscription.)[95] Charles directed that the matter should be referred to his foremost legal counselors, Attorney General Robert Sawyer and Solicitor General Heneage Finch, for report.[96] Sawyer's report was straightforward in its defense of the Company's rights. "By law your Majesty's subjects ought not to trade or traffic with any infidel country not in amity with your Majesty without your license," he reported, adding that "the license given to the company to trade into India with a prohibition to others is good in law."[97] Sawyer accordingly drafted a

[94] The phrase is Cholmley's. "Nathaniel Cholmley to Mr. Cholmley Stephens" (12/30/1684) North Yorkshire Archives, ZCG V 2/3, unfoliated. Cf Stern, *The Company-State*, 46, 143, who notes the purge of the Whigs but does not consider its impact on the EIC's partisan identity.
[95] "Copy of East India Petition to the King for a Proclamation" (11/11/1681) Kent Library and History Centre, U1015/O15/4; "Petition to the King" (11/11/1681) BL, IOR/B/36, f 173r.
[96] "Privy Council Register" TNA, PC 2/69, pp 390 (11/6/1681), 398 (11/11/1681).
[97] "Privy Council Minutes" (11/11/1681) TNA, PC 2/69, p 398; "Attorney General's Report Upon the Petition of the East India Company Touching the Affairs of Bombay" (11/16/1681) TNA, CO 77/14, f 36r.

proclamation against interloping, reaffirming the Company's exclusive liberty to trade and reminding all interlopers that the king did "strictly prohibit and forbit all" subjects to trade to the East Indies, upon pain of the king's "high displeasure, and of being proceeded against as contemners of our laws and royal authority, and of incurring the forfeiture and loss of the goods and merchandizes."[98] Yet this proclamation did little to stem the tide of interlopers – as we have seen, new merchants began outfitting ships for the Indies five months later.[99]

Events in Asia increased the urgency of addressing the interloping problem by contracting the EIC's trade. In March and April 1682, the EIC found itself on the losing side of a civil war in Java between Sultan Ageng Tirtayasa and his Dutch-backed son, Abu Nasr Abdul Kahhar.[100] Company factors at Bantam saw the Dutch as the principal architects of the war, writing that Abdul Kahhar "chooses to enslave himself to the Dutch [rather] than submit to his father" and had promised "to let them have all his pepper and to turn out all others."[101] By April 1 the Dutch and Abdul Kahhar had taken Bantam and torn down the EIC's castle, transporting the company's factors to Batavia and thence on to Surat.[102] The loss of Bantam was a terrible blow to the EIC. The port city had been central to the Company's growing pepper trade, making up 83% of the 5,109,345 lbs. imported in 1681. The trade would not recover for decades.[103] Furthermore, the loss of Bantam cut off the Company from East Asian trade, which had been growing in significance in the latter half of the 17th century.

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[98] "Privy Council Minutes" (11/16/1681) TNA, PC 2/69, pp 402-4. The proclamation was accordingly published as *A Proclamation for the Restraining all his Majesties Subjects but the East-India Company, to trade to the East-Indies* (London: 1681).
[99] *Impartial Protestant Mercury* #114 (5/23-26/1682).
[100] Stern, *The Company-State*, 70-71.
[101] "The rise of the Present Troubles at Bantam" (3/11/1681[/2]) BL, IOR/G/21/7, p 65.
[102] Vaughn, "John Company Armed," 117-118.
[103] Chaudhuri, *Trading World*, 527-529.

When news of the loss of the factory reached Leadenhall Street in March 1683, they immediately began putting the Company on a war footing. In an allusion to the infamous "Amboyna Massacre" of 1623, the Court of Committees resolved that "we shall never suffer [the Dutch] to carry [the Bantam business] smoothly off, as they have done things of the like nature heretofore." They fired off letters for their factors in South Asia, ordering the Agent and Council at Fort St. George in Madras "to strengthen and fortify our fort and town… that it may be tenable against the assault of any Indian Prince and the Dutch power of India."[104] Yet beating back the Dutch VOC required more than a defensive posture. The Company petitioned Charles for redress, noting that the "injurious and subtle practices of the Dutch East India Company" had cost the EIC "a large factory" which they had possessed for "near 70 or 80 years." Checking Dutch aggression was essential if the trade was to be preserved. Otherwise "the Dutch Company may become masters of the whole trade of India in a very short time; to the irreparable loss and dishonor of this kingdom as well as of your petitioners."[105] The Company began outfitting a fleet of warships to sail to Indonesia and secure restitution from the VOC through force of arms. These ships spoke to the deliberate muddying of corporate and royal authority in the 1680s. The flagship of the fleet was the *Charles II*, whose Captain Thomas Grantham had received a knighthood from Charles in February.[106] The other warships – the *Royal James*, the *Beaufort*, and the *Rochester* – emphasized the EIC's reliance on Tory courtiers and their support for the Duke of York.[107] The EIC wanted to launch a war on the VOC in the Indian Ocean backed by the might

[104] "To our Agent and Council at Fort St. George" (5/31/1683) BL, IOR/E/3/90, f 81r. For the Amboyna "Massacre," see Rupali Mishra, *A Business of State: Commerce, Politics, and the Birth of the East India Company* (Cambridge, MA: Harvard University Press, 2018), 209-242.
[105] "Court of Committees" (3/21/1682[/3]), (3/28/1683) BL, IOR/B/37, ff 127r, 129r; *The Scheme of the Subsequent Discourse: An East India Trade is Highly Advantageous to the True Interest of England* (London: Henry Hills, 1683), 1.
[106] "Newdigate Newsletters" (2/20/1682[/3]), "Newdigate Newsletters" (2/22/1682[/3]) FSL, LC 1340, LC 1341.
[107] "Warrant to the Commissioners of the Admiralty re EIC" (9/29/1683) TNA, SP 29/359, ff 61r-v.

of the Stuarts, but Charles stymied their plans. Instead, Charles agreed to grant a more circumscribed power to make war "against the young King of Bantam, or against any other infidel princes or people within the limits of the East India Company's charter… that have or shall make war against his Majesty's subjects in India."[108] By October, the Court of Committees regretfully acknowledged that "it is not thought convenient at this time that we should engage the King or Kingdom in a war with the Dutch, which in all probability would ensue" should the East India companies clash in Asia. Instead, "upon assurance given to our Ministers of State by the Dutch Ambassador" that the VOC would be ordered to withdraw from Bantam and restore "us to our ancient rights in that place," the EIC diverted its warships "into a course of trade."[109] The EIC could not take its retribution out on the Dutch.

With Charles's prohibition on an Anglo-Dutch war in Asia, the suppression of interlopers became the centerpiece of the Company's defensive posture overseas. To many in England, the two threats were interrelated. "Interlopers," wrote the Tory newswriter Nathaniel Thompson, joined with "foreign merchants" in a trade to the Indies, by which means "this most incomparable trade, which hath so well succeeded to our nation, may be ruined, or at least our East India Company very greatly prejudiced."[110] On Leadenhall Street they were often mentioned in the same breath, as when the Court of Committees noted "the great trouble" their factors in Bengal "have had with the Dutch and interlopers." The perception that these two problems were interrelated informed the Court's argument that interloping was "disloyal and unjust," a selfish act which undermined the English nation by handing the India trade to the

[108] "Jenkins to Attorney General Robert Sawyer" (7/24/1683) TNA, SP 44/68, p 343.
[109] "London to Fort St. George" (10/9/1683) BL, IOR/E/3/90, f 117r; "Earl of Sunderland to Jenkins" (3/19/1682[/3]) TNA, SP 29/422, f 317r.
[110] Nathaniel Thompson, *The Loyal Protestant and True Domestic Intelligence* #234 (11/16/1682).

Dutch.[111] The association between the VOC and interlopers likewise seems to have prevailed at Whitehall. On learning of "the ill news that is come from Bantam," Charles ordered Secretary Jenkins to "take care that the interlopers do not affront the officers of the Court of Admiralty," a tacit admission that the suppression of interlopers was a necessary part of any effort to check the Dutch menace.[112] The EIC could not seek their vengeance on the Dutch, but they could destroy the traitorous interlopers who sapped their financial resources and rendered them vulnerable to Dutch predation.

The warships which the Company had outfitted for the purpose of bringing the VOC to heel were repurposed with the new aim of catching interloping vessels. Thomas Grantham's commission reminded him of the Company's right to "seize the persons of such English or other of his Majesty's subjects in the… East Indies which shall sail… without our license." Grantham was charged with patrolling the East Indies in the *Charles the Second* from the Malabar Coast to the Bay of Bengal, "for the seizing, taking, and suppressing of his Majesty's said subjects, their ships, vessels, and goods… trading contrary to his Majesty's charter."[113] Yet seizing the ships alone was insufficient – without the power to make the seizures good in law, interlopers could drag out their suits in court for ages. To give the Company an edge, on August 9, 1683, Charles granted them a new charter, empowering the EIC to "erect and establish a court of judicature, to be held at such place[s]… as the Company shall, from time to time, direct" whose judges would be "nominated and appointed… by the governor, or deputy governor, and court."[114] The Court of Committees quickly sent off copies to their factories. The factors at Fort St. George, Surrat, and

[111] "London to Bay of Bengal" (9/5/1683) "To President at Council at Surratt" (5/31/1683), "To our Agent and Council in the Bay of Bengal" (5/30/1683) BL, IOR/E/3/90, ff 76v, 80r-v, 110r.
[112] "Earl of Sunderland to Jenkins" (3/17/1682[/3]) TNA, SP 29/422, ff 311r-v.
[113] "Commission to Sir Thomas Grantham, Commander of the Ship Charles the Second," (7/27/1683), "EIC's Commission and Instructions to Sir Thomas Grantham," (12/21/1683) BL, IOR/E/3/90, ff 100v, 144r-v.
[114] "Charter Establishing Courts of Admiralty" (8/9/1683) in John Shaw, Ed., *Charters Relating to the East India Company, from 1600 to 1761*, John Shaw, Ed. (Madras: Printed by H. Hill, 1887), 72.

Bombay each received "an authentic copy of our new charter granted by his Majesty for suppressing interlopers," and commissions appointing the company's factors as "judge advocate[s]… to put all the powers there in execution."[115] The vessels Grantham seized were to be delivered to those courts "to be adjudged and sentenced," establishing the legality of the seizures and enforcing the Company's monopoly on the ground.[116] Together these two measures – Grantham's patrol and the erection of Courts of Admiralty – gave the Company the means to enforce its monopoly in South Asia. The Court of Committees had high hopes for the new charter. "We have reason to think you will not again during this age be troubled with English interlopers," they wrote to their factors at Surrat, for patrols and the admiralty courts promised to "end that interloping itch of rebellion, for this age at least."[117]

In addition to these measures to protect the Company's trading privileges in Asia, the EIC sought judicial confirmation of their patent in England. On November 15, 1682, the Court of Committees ordered a "bill in chancery [to] be prepared to be exhibited against the owners and commanders of such ships as are set forth for India upon account of private trade contrary to the Company's charter."[118] On January 3, 1683, in a meeting with the King at Whitehall, Governor Child made "a long harangue, giving his majesty a full state and condition of their company," to which Charles answered by giving "his royal pleasure for suppressing all interlopers."[119] The following day, on the strength of the King's renewed promise to assist in the fight against

[115] "London to Fort St. George" (8/14/1683), "London to Surrat" (8/14/1683), "London to Bombay" (8/14/1683) BL, IOR/E/3/90, ff 105r-v, 106v, 107r. The judge appointed for Bombay, Dr. St. Johns, was recommended by Secretary of State Jenkins. "Jenkins to Sir John Banks, Governor of the East India Company" (9/10/1683) TNA, SP 29/359, f 62v; "London to Bay of Bengal" (12/21/1683) BL, IOR/E/3/90, f 149v.
[116] "EIC's Commission and Instructions to Sir Thomas Grantham" (12/21/1683) BL, IOR/E/3/90, ff 144r-v.
[117] "London to Surrat" (Sept 5, 1683), "London to Bay of Bengal" (9/5/1683) "London to Bay of Bengal" (12/21/1683) BL, IOR/E/3/90, ff 110r, 111r, 149v.
[118] "Court of Committees" (11/15/1682) BL, IOR/B/37, f 89v.
[119] "Court of Committees" (1/4/1682[/3]) BL, IOR/B/37, f 98v; "Newdigate Newsletter" (1/4/1682[/3]) FSL, LC 1320.

interlopers, the Court of Committees resolved to prosecute a suit against the owners of the ship *Commerce*, captained by Thomas Sandys (alias Sands) which had been outfitted for the East Indies but stopped in the Thames by the Commissioners of the Customshouse.[120]

The suit against the *Commerce* was a pretext to secure a judgement confirming the Company's grant. Indeed, the Company expressed a willingness to forfeit the half of Sandys's goods to which they were entitled by charter. Instead, the EIC asked the Lord Keeper[121] to grant them "an injunction for quieting of their possession," an order by a court of equity requiring that the Company's exclusive patent be respected.[122] In other words, the Company sought a legal confirmation that their charter was good, and that interloping was a kind of trespass on their property. Sandys responded with a flurry of suits in the Court of King's Bench, alleging that the Admiralty and Commissioners of the Customshouse had unlawfully interrupted his trade.[123] The problem, Sandys's attorneys argued, was that the EIC's "patent was a monopoly, and in itself void."[124] If the EIC's privileges were based in an illegal grant, then any measures taken to defend that grant – such as seizing the *Commerce* – were unlawful.

Lord Keeper Francis North split the difference. North had been sympathetic to the Levant Company in its disputes with the EIC in 1681-2, acknowledging in a manuscript treatise that he regarded "the Turkey trade as more beneficial to this kingdom" because he shared Buckworth's

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[120] "Court of Committees" (1/4/1682[/3]) BL, IOR/B/37, f 98v; "Newdigate Newsletter" (1/18/1682[/3]) FSL, LC 1326. Sandys is identified as the master of the *Commerce* in several places, including "Warrant to the Earl of Thanet" (2/15/1682[/3]) TNA, SP 29/359, f 54v.

[121] In the absence of an appointed Lord Chancellor, cases in the Court of Chancery were heard by the Lord Keeper of the Great Seal.

[122] "East India Company v Thomas Sandys" (1/27/1682[/3]) *Cases Argued and Adjudged in the High Court of Chancery, Published from the Manuscripts of Thomas Vernon, Late of the Middle Temple, Esq.* ([London]: E. and R. Nutt, 1726), I: 128. For injunctions to quiet possession, see John Baker, *An Introduction to English Legal History,* Fifth Ed. (Oxford: Oxford University Press, 2019), 113; David J. Raack, "A History of Injunctions in England before 1700" *Indiana Law Journal* 61, no. 4 (1986): 561, 564-565.

[123] Mark Goldie and John Spurr, Eds., *Entring Book of Roger Morrice* (Woodbridge: The Boydell Press, 2007), II: 340; "Newdigate Newsletters" FSL, LC 1327 (1/20/1682[/3]); LC 1328 (1/23/1682[/3]).

[124] "East India Company v Thomas Sandys" (1/27/1682[/3]) *Cases Argued and Adjudged in the High Court of Chancery,* I: 129.

critique that the East India trade exported silver and imported manufactures which competed with English textiles.[125] Yet as a jurist North's greater concern was the allegation, levied first by the Levant Company and appropriated by Sandys, that the EIC was an unlawful monopoly. Certainly, North wrote, the EIC possessed "all the qualities and mischiefs of a monopoly." He enumerated three: "they exclude other merchants… confine the trade... [and] enhance or lower prices at their pleasure." These had been precisely the concerns which had motivated the passage of the Statute of Monopolies under James I. Yet in the East India Company's case, these were emergent, rather than intrinsic, properties. "At the first setting up of this Company," mused North, "it could not be called a monopoly, because it comprehended all merchants that would come in." Yet over the decades since the Restoration, no new subscription had been taken up, and the shares had amassed into the hands of a small minority.[126] North's concern was that the Company's lawful "patent of regulation" had perhaps "become a monopoly" by the consolidation of the trade into "fewer hands." Whether such a transition was possible, and when, if at all, it had occurred in the EIC's case, North was not sure. "What influence [the statutory prohibition on monopolies] may have on this case is a worthy consideration," he ruled, but one which needed to be settled in a court of law.[127] North referred the case to the Court of King's Bench. There, *EIC v Sandys* would take on an additional aspect. What began as a case narrowly concerned with the legality of the Company's trading privileges morphed in the lengthy arguments which followed into a debate over the nature of the Company's relationship to the English crown. In the process,

[125] Francis North, "An Essay Upon the East India Company" (ca. 1682) BL, Add MS 32,518, ff 193r-196r. North's brother, Dudley, was a prominent English merchant in Istanbul and an assistant in the Levant Company in the 1680s. Roger North, *The Lives of the Right Honorable Francis North, Baron Guilford; the Honorable Sir Dudley North; and the Honorable and Reverend Dr. John North* (London: George Bell and Sons, 1890), II: 7, 178-9, *passim*.
[126] North, "An Essay Upon the East India Company," 196v-200r.
[127] "East India Company v Thomas Sandys" (1/27/1682[/3]) *Cases Argued and Adjudged in the High Court of Chancery,* I: 130; "Newdigate Newsletter" (1/30/1682[/3]) FSL, LC 1331.

the Company would argue that it was something more than a merchant or a collection of subjects – that it was, in effect, part of the royal government.

The Political Theory of EIC v Sandys

North's decision to send *EIC v. Sandys* to the Court of King's Bench to determine whether the Company's charter violated the statute of monopolies raised the stakes of the suit. Whereas the Company had sought only a confirmation of its possession, the controversy now concerned the limits of royal power and the legal foundation of the Company's existence. Was the Company's patent legally sound?[128] Could monarchs legally issue charters which granted exclusive trading rights overseas? The question had enormous implications. According to Attorney General Robert Sawyer, one of the attorneys for the EIC, the issue in *Sandys* concerned "the prerogative of the crown, in all the charters for foreign trade."[129] For over a century, such charters had served as the legal foundation for English overseas expansion. *Sandys* struck at the heart of the 17th century English imperial constitution.

Unsurprisingly for such a constitutionally significant case, *Sandys* drew together many of the most vocal champions and critics of the royal prerogative. Sandys retained as counsel the very flower of Whig legal thought. Sir George Treby, at the trial's opening Recorder of London, had been a prominent Whig in Parliament, where he had helmed the committee to investigate the popish plot and been an early proponent of exclusion, saying that anything else was "in plain English to have our throats cut."[130] William Williams, Recorder of Chester, had likewise pushed

[128] While each of the attorneys involved phrased the question slightly differently, all agreed that this was the basic issue of the suit. "East India Company v Sandys" *ST*, X: 372 (Holt), 385 (Treby), 405 (Finch), 419 (Pollexfen), 457 (Sawyer), 495 (Williams).
[129] *ST*, X: 479.
[130] Bodleian MS Carte 72, f 466; *CJ*, IX: 620 (5/11/1679); J.S. Crossette and Basil Duke Henning, "TREBY, George (1642-1700), of Fleet Street, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/treby-george-1642-1700; "Paul D. Halliday,

for exclusion in the Commons before he was twice elected Speaker of the House. After the dissolution of the Oxford Parliament, he had discouraged members of the Chester grand jury from signing an abhorrence of Shaftesbury's purported association.[131] Henry Pollexfen had not served in the exclusion parliaments, but he afterwards served as counsel to both Lord William Russell and William Sacheverell, two known enemies of the crown, earning him a reputation as an "advisor and advocate of traitors" among Tories.[132]

Attorneys for the Company, conversely, were Toryism's legal luminaries. Attorney General Robert Sawyer, whose "family… profession… [and] education have always been toward the King and the Church" led the case for the Company during the campaign to remodel English municipal charters to ensure royal control. In his capacity as the crown's foremost legal officer, Sawyer had been responsible for the prosecution of a number of royal enemies, including Lord Russell and Edward Fitzharris.[133] Solicitor General Heneage Finch, son of the Lord Chancellor, had opposed exclusion in Parliament before his appointment in 1679, and during the Tory Reaction had assisted Sawyer in his efforts to reestablish royal authority throughout the kingdom.[134] The final counselor was the moderate barrister John Holt, whose defense of Lord

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"Treby, Sir George (bap. 1644, d. 1700)" in *Oxford Dictionary of National Biography*, September 23, 2010, https://doi.org/10.1093/ref:odnb/27675.

[131] "Edward Fitzharris to Leoline Jenkins" (4/8/1682) TNA, SP 29/418, f 381r; Gillian Hampson, "WILLIAMS, William (c.1634-1700), of Nantanog, Llantrisant, Anglesey and Glascoed, Llansilin, Denb." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/williams-william-1634-1700.

[132] *ST*, X: 30-96; J.S. Crossette, "POLLEXFEN, Henry (c.1632-91), of Woodbury, Devon and Lincoln's Inn Fields, London" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/pollexfen-henry-1632-91; Robert White, "Pollexfen, Sir Henry (c. 1632-1691)" in *Oxford Dictionary of National Biography*, May 26, 2016, https://doi.org/10.1093/ref:odnb/22474.

[133] "Sir Francis North to Leoline Jenkins" (2/11/1680[/1]) TNA, SP 29/415, f 67r; Leonard Naylor and E.R. Edwards, "SAWYER, Robert (1633-92), of Highclere, Hants." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/sawyer-robert-1633-92.

[134] Leonard Naylor, "FINCH, Hon. Heneage I (c.1649-1719), of Albury, Surr." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/finch-hon-heneage-i-1649-1719.

Russel in 1683 did not prevent Charles II from appointing him Serjeant-at-Law in 1684, nor James II from retaining him as Recorder of Reading in 1685.[135] Most of the attorneys involved in *Sandys* had clashed previously, most famously in *Rex v. London*, where Treby and Pollexfen had sparred with Sawyer and Finch over the extent of royal power to regulate corporate conduct.[136] Arrayed against each other again in *Sandys*, they once again debated the extent of royal power to govern and regulate corporations. For the barristers in the case, *EIC v. Sandys* was one in a long line of partisan legal and political battles in the 1680s. The EIC's fate was inextricably bound up with the politics of the Tory Reaction.

When arguments began, the EIC's attorneys came out forcefully against Sandys's assertion that the charter created an unlawful monopoly. They began with the definition of monopoly laid out by Sir Edward Coke. "A monopoly," Coke had said, "tends to restrain such liberty and freedom the subject had before, or to hinder him in his lawful trade." Therefore, continued Finch, "if this patent does not restrain any natural liberty or right that the subject had, but [introduces] a new one," then it was not a monopoly.[137] Did English subjects possess a "natural liberty" to trade to the Indies that the EIC had engrossed? Hardly, the Company's attorneys replied. English subjects had no inherent liberty to trade with Asia, they argued, because the inhabitants there were infidels. Legally-speaking, the Muslim and Hindu subjects of the East Indies were "perpetual enemies" of Christendom, occupying a permanent state of war

[135] J. S. Crossette, "HOLT, Sir John (1642-1710), of Bedford Row, Mdx. and Redgrave, Suff." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/holt-sir-john-1642-1710; Paul D. Halliday, "Holt, Sir John (1642-1710)" in *Oxford Dictionary of National Biography*, October 8, 2009, https://doi.org/10.1093/ref:odnb/13611; "Warrant for Reading Charter," (12/5/1685) TNA, SP 44/336, pp 291-293.
[136] *ST*, VIII: 1039-1272; Jennifer Levin, *The Charter Controversy in the City of London, 1660-1688, and its Consequences* (London: The Athlone Press, 1969). Though Holt had not argued the case, he had advised London's Common Council to surrender the charter in October 1683. "Debate on the Surrender of the Charter" (10/2/1683) London Archives, COL/CC/01/01/48, ff 96r-98r.
[137] *ST*, X: 380, 406, 491.

with the subjects of England's protestant king. This was because interaction with infidels posed an existential threat to a Christian polity. "Commerce with pagans," argued Holt, occasioned great risk, lest "right religion" suffer "infection, by correspondence with infidels." It was unimaginable that Englishmen would have free rein to engage in a traffic that by its very nature "endangers their religion."[138] The EIC had not taken a trade common to all into its own hands. It had instead, as Child had frequently asserted in his pamphlets, established a new trade with the peoples of Asia. This was no monopoly.

To Sandys's attorneys, this religious way of conceptualizing trade made little sense. If the argument was taken to its logical extreme, argued Treby – if English merchants could only trade with their coreligionists – then "there ought to be no foreign trade at all; for there is no country where the religion does not differ… from… the Church of England." Yet even allowing such a framework, Treby saw no reason why it should apply only to a subset of English subjects. "It cannot be pretended," he scoffed, "that the King is or can be in amity with [the Infidels of Asia] as to one part of his subjects (namely the Company) and in enmity with them, as to the other."[139] Either the peoples of Asia were enemies of the English king and nation, or there were not. On what basis could the Company claim exception?

The Company's response focused on their unique role as diplomatic agents in Asia. By their patent, the Company possessed "power to make war or peace with any infidel prince," as well as make laws "for the good government of the said Company, and of all factors, masters, mariners, and other officers" in their employ.[140] These powers, noted Holt, obliged the Company "to take care of the Christian religion; and to take care that their agents and factors that trade

[138] *ST*, X: 373-8, 408, 484-489.
[139] *ST*, X: 392-4.
[140] "Letters Patents Granted to the Governor and Company of Merchants of London, Trading into the East Indies" (4/3/1661) in Shaw, *Charters Relating to the East India Company*, 37, 44-45.

under this constitution, keep up that religion they profess." The Company, by governing its own employees and regulating English interactions with foreign infidels, could maintain "right religion" for those under its authority. Yet for interlopers, trading without either diplomatic powers or government, it was "quite another thing." The diplomatic powers granted to the Company enabled them to make treaties with infidel powers and establish peaceful commercial relations. As Sawyer noted, "all other subjects" remained "merely precarious," having "no pretence of any peace made by the Company." "To them," he concluded, "the Indians remain to all purposes alien enemies."[141] The East India Company had, in effect, made a separate peace.

For William Williams, this went far beyond the powers that any corporation could plausibly claim. Indeed, such maximalist readings of the company's charter did "not only invest the Company [with powers], but divest the King of his prerogative." They rendered the Company as "a sort of republic for the management of trade," a body politic which "alter[ed] the constitution of England." The Company's independence from the crown was especially daunting considering the broad authorities it could claim overseas. By its charter, the EIC was empowered to "seize goods and ships, and imprison the king's subjects" without trial, a power even Charles II could not claim. The Company had, Williams claimed, "a greater prerogative over the subject than his Majesty hath." For their attorneys to claim that the king had erected a separate polity, able to "exclude himself and his successors, and all the rest of his subjects, from [the] trade and management" of the Company, was tantamount to a declaration that the EIC was "independent from the government."[142]

[141] *ST*, X: 489; 379-80. Stern calls this the EIC attorneys' "critical move." Stern, *The Company-State*, 52.
[142] *ST*, X: 496-498, 507.

The idea that the 17th century East India Company was a "company-state" rests in large part on Williams's construction of their arguments in this case.[143] Yet Williams, as attorney for Sandys, was not intent on fairly representing the Company's argument. In fact, the Company had been at great pains to emphasize the royal provenance of their authority throughout the trial, revealing an understanding of their place within the constitution quite at odds with the view attributed to them by Williams. The Company's attorneys had begun by emphasizing that the responsibility for curtailing the corrupting influence of commerce with infidels belonged to the monarch, who as the "defender of the faith" "entrustred with the administration of the government" was "to have a care of the Christian religion."[144] The core responsibility which the Company's attorneys claimed justified their existence was a royal one. Yet in distant South Asia, out of the king's reach, expedients were needed to execute this royal trust. The East India Company was that expedient, deputized by England's monarch to govern on his behalf. The Company was not a "republic for the management of trade," operating a jurisdiction independent or outside of the royal demesne. Instead, its holdings were, in the words of Solicitor General Finch, "in the nature of foreign plantations." The Company provided the "regulated and Christian government" which disciplined subjects in these plantations, but it did so as a colonial government under an imperial sovereign. Like other colonies, the East India Company's power was not self-sustaining. While the EIC was, to a first approximation, self-governing, it was always subordinate to the royal power which was constitutive of its being. This is why Sawyer could argue for the Company while swearing that his sole aim was "asserting the king's just

[143] Stern sees the EIC's arguments in *Sandys* as the clearest expression of the Company's understanding of its own jurisdictional autonomy vis-à-vis the early modern English state, particularly for the period before the 1690s. Yet his understanding of the EIC's position is clearly colored by Williams's assertions that the EIC was a "republic for the management of trade," a quip that Stern labels "a pregnant phrase" which "in many ways, captured… what the Company had been arguing." *The Company-State*, 15, 46-60, esp 50-53, 55.
[144] *ST*, X: 375.

prerogative." John Holt summed up the case neatly. English merchants who traded to Asia "in a company," he argued, did so "under the government of England," while those who trade "out of a company… trade out of the government of England, and out of its protection."[145] The EIC was not an independent "company-state," exercising its own government in the East Indies. It was the representative of English royal authority in Asia.

Contemporary conflicts in the company's overseas possessions suggest that this argument was more than opportunistic pandering on the EIC's part. On December 27, 1683, Captain Richard Keigwin and the bulk of the garrison stationed at Bombay had revolted against the island's unpopular deputy governor Charles Ward, imprisoning him in the fort. They then declared their independence from the East India Company in a loyal address to the King which echoed Williams's critique of the Company. Keigwin and his fellow rebels explained that the company had "disregarded and vilified" the King's authority, and "oppressed" his subjects. Indeed, so great were the "grievous oppressions, impositions, and exactions," placed on English people in Bombay, "that your Majesty's subjects are… enslaved and subjected to an arbitrary power." The rebels, Keigwin asserted, had acted as "the hand to punish" the Company's servants "as rebels and traitors to your majesty, unworthy the name of subjects, commonwealth plotters… regarding neither your Majesty's honor nor your subject's welfare further than what tend to their insatiable avarice."[146] According to Anne Bowcher, wife of the interloper George Bowcher, the rebellion had been carried out "according to all loyal subjects bounden duty," by which they had "cast off the tyrannical yoke of [the] East India Company and seize[d] on the fort and island of Bombay in the name of his sacred Majesty."[147] The rebels advised the Company that their

[145] *ST*, X: 375, 379, 411, 458.
[146] "Loyal Address of Keigwin, et al., to Charles II" (1/28/1683[/4]) BL, IOR/E/3/43/3, f 402r; Ray and Oliver Strachey, *Keigwin's Rebellion (1683-4): An Episode in the History of Bombay* (Oxford: Clarendon Press, 1916).
[147] "Attestation of Henry Smith," (1/6/1683[/4]) BL, IOR/E/3/43/3, f 352r.

"concerns and affairs, as also your servants, shall be more securely and safely protected by his Majesty's than ever they could be by your honors' government."[148] The rebellion in Bombay was justified as liberating English subjects from a tyrannical corporate commonwealth, an independent republic, and restoring them to their rights under the crown.

In St. Helena the following October, a soldier in the Company's employ named Allen Dennison had similarly distinguished between corporate and royal authority as a means to challenge the former. Dennison publicly accused the island's deputy governor, Robert Holden, of claiming that the St. Helena garrison were "not his majesty's subjects, but the Company's." When Dennison's outburst landed him in the island's jail, an armed force of 50-60 soldiers and planters besieged the island's fort to free him.[149] They also sought to punish those corporate officials whom they considered guilty of treason. Pounding on the door of the fort, one of the leaders of the rebels threatened "if you will not deliver Captain Holden, the trait[or], we will have you too."[150] Who had been betrayed? An improvised banner made by the rebels provides a clue. The forces arrayed against the Company's governors "carried a flag made in imitation of the union flag, to signify that they thought themselves still the King's subjects."[151] The disjuncture between corporate and royal authority provided a weak point in the Company's claims to govern Englishmen overseas, an Achilles heel that opponents of the Company across the empire used to challenge the Company's legitimacy. Like Williams in Westminster, rebels

[148] Strachey and Stachey, *Keigwin's Rebellion*, 99.
[149] "St. Helena Consultations" (10/13/1684) BL, IOR/G/32/2, unnumbered (approximately sheet 62-63).
[150] "St. Helena Consultations" (12/24/1684) BL, IOR/G/32/2, 594. This event would become a lightning rod for critics of the Company after the revolution in 1688, when the spouses of the rebellious soldiers petitioned parliament for redress. See Dorothy Bowyer and Martha Bolton, *The Deplorable Case of the Poor Distressed Planters in the Island of St. Hellena, under the Cruel Oppressions of the East-India Company* (London: 1689); "St. Helena Petition" (10/30/1689) *CJ*, X: 277. For another account of the 1684 uprising and its aftermath, see Stephen Royle, *The Company's Island: St Helena, Company Colonies, and the Colonial Endeavor* (London: I.B. Tauris, 2007), 114-122.
[151] Bowyer and Bolton, *The Deplorable Case of the Poor Distressed Planters in the Island of St. Hellena*, 1.

across the empire repeatedly challenged the Company's authority by claiming that it was in opposition to royal government.

Those who spoke for the Company invariably put forth an alternative framework for understanding the EIC's constitutional position. John Child, the Company's president at Surat, condemned Keigwin and the other rebels at Bombay as subverters of royal authority. "You say you are for the king," wrote Child, "and yet you condemn his royal authority, ravish the government out of the hands that he hath entrusted his island [to], and put up one of your own." Like Keigwin, Child invoked the symbols of royal authority to legitimize his claims to govern. When Keigwin and his coconspirators raised the royal standard over Bombay in an attempt to persuade "the soldiers as [well as] the other inhabitants that none but them durst wear his Majesty's union flag," Child ordered that "the union flag should be put out on the main top mast head of the ship… whereof all the respective ships" of Child's fleet "saluted it with their great guns out of respect due to his Majesty."[152]

On St. Helena, when Robert Holden related the conversation during which Dennison claimed he had usurped royal authority, his account looked very different. Dennison, angered that Holden refused to issue a portion of his pay in tobacco, had let loose "many provoking words," ultimately offering "reviling languages against the said Honorable Company." Holden had "checked him for his abusive language and reflection" on the EIC, "whose soldier he was and had maintenance from." Yet Dennison's obedience to the Company was rooted in more than the terms of his employmenet. It was instead rooted in his fundamental loyalty to the monarch. Dennison "was, or ought to be… the Honorable Company's subject" said Holden, "as their power and authority on this island was the king's" "derived to the said company." Harsh words

[152] "Consultations of the President and Council in Bombay," (1/31/1683[/4]), "John Child to Richard Keigwin, Henry Fletcher, Stephen Aderton, Thornburn, Thomas Wilkins," (2/1/1683[/4]) BL, IOR E/3/43/3, ff 414r, 425r.

against the Company were therefore akin to sedition. "He that disowns their [the Company's] power, and subjection to it," Holden warned, "disowns his Majesty's." In closing his testimony before the St. Helena Council, Holden denied he ever "had any meaning… of the least disloyalty, or diminishing his gracious majesty's power and prerogative over all his subjects, particularly over the said Honorable Company, and all… who are upon this island." The Governor and Council commended Holden for his carriage, accounting him a "person of much worth, loyalty, and sincerity to his majesty and his government, and to the maintenance of his power, and authority in this place in the hands of the Honorable Company."[153] Just as Holt, Finch, and Sawyer had emphasized the identification between the East India Company and the monarch, so too did the Company's servants abroad see themselves as servants of the crown.

News of these rebellions hastened the company's desire to secure a verdict in *Sandys*. Upon learning of the rebellion in Bombay, Charles ordered the EIC to form a secret committee to investigate the matter and recommend what was necessary for their further security. The secret committee, which included Josiah Child, Joseph Ashe, Benjamin Bathurst, Jeremiah Sambrook, and Joseph Herne, met on August 15, 1684. According to the report the committee composed for the king, the "true cause of the… rebellion" was "the suggestion of interlopers," particularly two former Company servants, John Petit and George Bowcher. Keigwin's declaration was "an invitation [to] all interlopers to join with them," a move which would surely undermine royal authority given "how inconsistent interloping is with any kind of order or government in India." So long as interloping continued unchecked, rebellions against the Company's authority would surely continue – by the committee's account, Keigwin's uprising was the fifth such act of sedition. What could be done to "remedy… the said mischief at Bombay, and others of the like

[153] "St. Helena Consultations" (10/13/1684) BL, IOR/G/32/2, unnumbered (approximately sheet 62-63).

kind, that may ensue?" The committee's foremost recommendation was "that the litigation that hath so long depended concerning the legality of the Company's charter, may have a determination, that your Majesty's subjects may know their duty." English subjects residing within the limits of the Company's charter must recognize that rebellions were offenses "against your Majesty's laws, to the inestimable damage of this kingdom as well as your Majesty's East India Company."[154] Only a resolution to *EIC v. Sandys* could establish once and for all the identity between royal and corporate authority in South Asia and put an end to rebels' claims to represent the king against the company.

The Company had no need to fear the resolution of the case. Indeed, throughout the proceedings in *Sandys*, Charles had made good on his promise to assist the Company in its quarrel with interlopers. Even before arguments had begun, Company leaders had solicited legal assistance and advice from royal counselors. In June 1683, Governor Banks had inquired with "his Majesty's counsel at law… touching the most effectual way for suppressing of interlopers." The counselors, probably Attorney General Robert Sawyer and Solicitor General Heneage Finch, recommended that the Company bring suits against interlopers, supplementing private, civil litigation with informations "in the crown office in the king's name for high misdemeanor" – that is, trying interlopers for both their material harm to the company and their repudiation of their sovereign's authority.[155] Sawyer and Finch likewise executed the Company's strategy by arguing for the EIC in *Sandys*, a move which saw them simultaneously representing the interests of the crown and the Company. Even the judges played a role in the collaboration between the EIC and the monarch. With the appointment of George Jeffreys as Lord Chief Justice of the King's Bench

[154] "Transactions of the Secret Committee about Bombay" (8/15/1684) BL, IOR/E/3/90, ff 200v-202r.
[155] "Court of Committees" (6/22/1683) BL, IOR/B/37, f 151v; "London to Surrat" (7/20/1683) BL, IOR/E/3/90, f 86r.

on September 28, 1683, one of the Company's own freemen became the ultimate broker of the legality of its patent. As if Jeffreys, a man famous across the country for his steadfast loyalty to the Stuarts, might fail to uphold the prerogative in this case, Charles made sure that he knew what was expected. In May 1684, shortly after the second round of arguments in *Sandys*, Secretary of State Sunderland informed the Lord Chief Justice that the King wished him "to show them [the EIC] all the favor you can, so far as may be consistent with the law, and the practice of the court." He even offered to have Jeffreys "send for the Attorney General [Sawyer] to attend your lordship" and discuss the case.[156] The EIC's legal strategy was shaped and argued by royal counselors before one of their own freemen already famous for his devotion to royal power. In *Sandys*, the crown and the company spoke with one voice.[157]

Unsurprisingly, then, the rulings in *East India Company v. Thomas Sandys* endorsed the vision of the crown-company relationship the EIC's attorneys had put forth. Jeffreys, a longtime adversary of Williams in Chester, was deeply skeptical of his argument that "this grant hath made the plaintiffs a mere republic, and thereby has altered the constitution of England in the management of trade by Common-wealths… independent upon the crown." Instead, in echo of Holt's claims about the company as part of the "government of England," Jeffreys argued that that the King had "by his charter" made "the plaintiffs as it were his ambassadors to concert a peace" with enemy infidels.[158] The appropriate metaphor for the Company's constitutional position was not an independent sovereignty, but an officer of the crown. The other justices shared this view. The King, wrote Justice Walcott, "is the protector of us in our religion," even as

[156] "Sunderland to Lord Chief Justice [George Jeffreys]" (5/9/1684) TNA, SP 44/56, p 96.
[157] I therefore dissent from Stern's view that the judges' rulings "need to be seen not as a confirmation of the Company's position, but as introducing a third side, the Crown, into the debate." Stern, *The Company-State*, 57.
[158] George Jeffreys, *The Argument of the Lord Chief Justice of the Court of King's Bench concerning the Great Case of Monopolies* (London: Randal Taylor, 1689), 3-6, 24.

he was responsible "for encouraging and supporting of trade." To accomplish both goals at once, he had "erected a company giving them rules and methods to go by," in the process "proscrib[ing] them a form, and under what manner of government they should act" even occasionally "direct[ing] them which way to steer."[159] Justice Holloway agreed, noting that Charles had issued the East India Company's charter "to take care of the honor and good of the nation," as was consistent with his bounded duty and undoubted prerogatives.[160] Justice Wythens (the same Francis Wythens whom Papillon had lambasted in Parliament) was especially effusive on this point. The spiritual authority which the Company exercised was part of the prerogative of the king, Wythens began. But it had not been granted to the Company in its entirety. "The sovereign [is] at all times… head of the church," Wythens noted, and "hath had a power to deal with infidels and strangers to the faith." Monarchs had not relinquished this power by erecting companies for overseas trade. They instead acted through those companies, exercising their spiritual power through specially-created governments. Yet these were not independent bodies, as Williams had alleged. When Charles had granted the East India Company "an authority" to trade to the Indies, it was only "an inferior authority under him, and they [the Company] are in the nature of his servants."[161] Corporate authority was merely a guise of royal authority.

By implication, interlopers were worse than commercial rivals, and their crimes were worse than trespass; they were, in effect, acts of petty rebellion against agents empowered by the king's prerogative. In a lengthy digression, LCJ Jeffreys described the history of opposition to the East India Company's patent as a history of rebellions against the royal prerogative. The first

[159] "Proceedings of EIC v Sandys" (1/31/1684[/5]) BL, Lansdowne MS 650, ff 209r-v.
[160] "Proceedings of EIC v Sandys" (1/31/1684[/5]) BL, Lansdowne MS 650, ff 212v-213r, 214r.
[161] "Proceedings of EIC v Sandys" (1/31/1684[/5]) BL, Lansdowne MS 650, ff 219r-v; Eveline Cruickshanks, "WYTHENS, Francis (c.1635-1704), of Southend, Eltham, Kent and the Middle Temple" in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/wythens-francis-1635-1704.

challenge to the Company's patent, Jeffreys argued, had occurred during the Civil War, when "all the prerogatives of the crown were invaded." The return of monarchy in 1661 had led to the restoration of the Company's privileges, as part of Charles's concern for the welfare of his kingdom and the benefit arising from trade. Since then, factious persons had taken "advantage of the heats that too frequently possessed the House of Commons… especially against the point of prerogative" to "furiously attack the East India Company," but to no avail. Sandys was the first to challenge the Company's patent in court, and Jeffreys noted the coincidence that "the interlopers against the King's prerogative in this particular, and the horrid conspirators against the king's life in this last hellish conspiracy [the Rye House Plot], first appeared in Westminster-Hall about the same time."[162] By embracing the royal foundation of its power and identifying itself as a tool of the Stuart monarch, the EIC under Josiah Child had effectively cast its enemies as opponents of the prerogative and of royal power.

These views of the EIC's constitutional relationship to the crown owed much to the corporate policy underlying the Tory Reaction, a policy whose chief theorist was Chief Justice of the Common Pleas and later Lord Keeper of the Great Seal Francis North. North's views emphasized the overwhelming power of the royal prerogative over corporations in language which anticipated many of the claims made by the company's servants and attorneys, including those made by North's kinsman AG Robert Sawyer.[163] Holt's argument that the EIC was part of "the government of England" and Holden's assertion that the EIC's authority was "the king's authority, derived to the Company" echoed North's dictum that public franchises such as corporations were "all but parts of the king's ordinary government, detached and entrusted to

[162] Jeffreys, *The Argument of the Lord Chief Justice… concerning the Great Case of Monopolies*, 28-29.
[163] "Sir Francis North to Leoline Jenkins" (2/11/1680[/1]) TNA, SP 29/415, f 67r.

particular persons, for his ease and the people's convenience."[164] "Nothing but civil power," North added, "or what we usually call a charter from the prince" could enable corporations like the East India Company to "govern themselves."[165] The Company's authority was thus entirely dependent upon its royal foundation. Even the justices' analogy that the EIC was like an "ambassador" or "servant" of the crown evoked North's claim that corporations "were in their nature like offices and officers" under the king.[166] The main precedent cited by Jeffreys in his ruling in *Sandys* demonstrates the importance of the context of the Tory Reaction to the case. The East India Company was not "a mere republic," Jeffreys noted, but a corporation whose "liberties and privileges originally proceeded from the crown, and are therefore forfeitable to" it, "an eminent instance whereof is that great case of the city of London."[167] *Rex v. London*, the case which had helped accelerate the pace of municipal surrenders and stripped the most powerful corporation in the empire of its charter, was the guiding precedent in *EIC v. Sandys*. The view of corporate-crown relations underlying the Tory Reaction suffused the arguments made by the justices and the Company alike.

Conclusion

The Company wasted little time in capitalizing on the *Sandys* decision. A week after the verdict was handed down, the Court of Committees convened a secret debate to determine "what was to be done concerning the prosecution against the interlopers" whose cases were still pending.[168] The diarist Roger Morrice recorded, correctly, that the verdict had represented a loss,

[164] Francis North, "An Account of Franchises and More Particularly such as are Enjoyed by Spiritual Persons" BL, Add MS 32,520, f 67r
[165] Francis North, "Of Government according to the Laws of the Land" Bodleian, MS North b. 8, f 397r
[166] Francis North, "Reflections upon Occasion of the Quo Warranto against the City of London" (ca. 1682) BL, Add MS 32,519, f 122v.
[167] Jeffreys, *The Argument of the Lord Chief Justice… concerning the Great Case of Monopolies*, 6.
[168] "Court of Committees" (2/4/1684[/5]) BL, IOR/B/38, f 81r.

not only for Thomas Sandys, but for "my Lord Lumley, Mr. Cholmley, Sir John Buckworth, etc" – any and all interlopers to Asia.[169] In their letters to their factors in India, the Company's leaders looked forward to a new golden age. "Judgement being given and entered," they wrote, "we hope you will be not more troubled with any private ships for the future." Yet the Court did not describe the judgement primarily as a vindication of their private rights to trade. The judges had ruled that "the power of making such grants" as the Company possessed had "been always in the crown." Sandys was the first to ever "presume to call the right of the crown in question," but the judges were confident he would be the last.[170] As the East India Company made sense of the new ruling, they recognized that it was primarily a victory for the royal prerogative.[171] As the Court of Committees wrote to their factors two years later, the Company was under the "entire and absolute command" of "our own sovereign."[172] Their interest had been advanced, but only because the prerogative to grant exclusive trading privileges had been upheld. The security of company privileges, they recognized, depended entirely on the security of the royal prerogative.

The General Court's understanding of the ruling in *EIC v. Sandys* sheds light on the terms of the crown-company alliance as well as the Company's seemingly exceptional treatment within the corporate policy of the Tory Reaction. In 1681, both the Stuart monarchs and the East India Company had been under threat, the former from Whigs and nonconformists, the latter from interlopers. Josiah Child had used a mixture of bribery, patronage, and partisan purges to identify the Company with the embattled Stuarts, and to show his willingness to support them in the

[169] *The Entring Book of Roger Morrice*, II: 507-8 (2/5/1684[/5]).
[170] "London to Fort St. George" (2/13/1684[/5]) BL, IOR/E/3/90, ff 257r-v.
[171] The Royal African Company drew the same conclusion. In their commissions to captains for the next several years, the RAC included a clause reminding them that "the laws [had] asserted his Majesty's right to grant charters and to punish any subjects that shall presume contemptuously to violate his prerogative." "Instructions to Captain Thomas Woodfine" (12/10/1685) TNA, T 70/61, f 3v. The clause was quietly dropped between the "Instructions to Captain Samuel Rickard" (12/4/1688), ff 76r-77r, and the "Instructions to Captain Giles Daniel" (2/12/1688[/9]), ff 77r-v.
[172] "London to Fort St. George" (9/28/1687) BL, IOR/E/3/91, f 214v.

reestablishment of the regime. *EIC v. Sandys* represented the apotheosis of this fusion of crown-company interests – in the arguments the company's (and the crown's) attorneys made, the EIC had no interests independent of the crown – it was simply part of the government of England. Its interests in promoting trade were the king's interests; its enemies, the interlopers who transgressed the company's monopoly, were the king's enemies, because they thwarted the royal prerogative. With the Company's submission so absolute, Charles had no need to seize the East India Company's charter as he did with so many other corporations – the Company was already granting him lavish gifts, was personally connected to the royal family and their closest allies and had already purged its own disaffected members. Charles could afford to be so generous with the East India Company during the Tory Reaction precisely because the EIC's loyalty was unimpeachable. That it was so was the result of Josiah Child's relentless effort to forge a crown-company alliance in the final years of Charles's reign.

Indeed, Child was so successful at melding the interests of crown and company that it's easy to see the alliance between the two as inevitable. Yet as we have seen, the East India Company's politics were not homogenous on the eve of the Tory Reaction. Throughout the Exclusion Crisis, nationally prominent Whigs had held considerable sway within the Company. Support for royal absolutism was not baked into the EIC by its charter – it emerged within the Company as one possible response to the external pressure of interloping, and only achieved dominance when Charles rejected the Court's proposal to incorporate the interlopers into a new joint stock. Like England's municipal corporations, the East India Company was not a monolith; it was a site of political, ideological, and economic contestation, in which different factions battled to determine the corporation's behavior.

The EIC's intestinal conflicts intersected with, shaped, and were shaped by broader political disputes animating public life during the Tory Reaction. Papillon used the Company to compel the king to deal with parliament in 1680; Charles rejected Papillon's bid for an expanded stock in 1681, forcing the EIC to embrace Child's policy of royally-backed suppression of interlopers; Child in turn identified the Company with Toryism and the Stuart monarchs as a way of ensuring royal support for the suppression of interlopers. During the Tory Reaction national and corporate politics impacted each other causing a process of reciprocal definition in which the EIC's militancy served as cause and consequence of Stuart absolutism and vice versa. This symbiosis illustrates the limitations of understanding the East India Company through the "company-state" framework. The East India Company was a part of the English state – it was one of the hundreds of self-governing communities wielding political authority under the crown that constituted the matrix of political power in early modern England and its empire. This did not mean it never clashed with the monarch (it did) or that its enemies were always the monarch's enemies (they weren't). But it does mean that we cannot understand the calculations company officials made about how to use company power and how to navigate their relationship with the crown in a vacuum. It is impossible to understand the shape that the company took or the politics that it embraced in the 1680s without considering the broader political contexts that shaped its behavior. Josiah Child did not build the crown-company alliance to maintain the Company's independence; he did so to disavow it.

"No Other than a Corporation":

Law, Politics, and the End of the Massachusetts Bay Company

Introduction

The loss of the Massachusetts Bay Company's first charter in 1684 and the subsequent establishment of the Dominion of New England loom large in the historiography of the 17th century English Empire. The intensity and archival richness of the Massachusetts conflict, to say nothing of the colony's outsized role in US national history, have long attracted historians to the episode. In the seizure of the royal charters of the New England colonies and their amalgamation into a single massive dominion helmed by a royal governor we can perceive the transition from an early 17th century empire of haphazard, constitutionally heterogenous overseas possessions towards a more centralized, coherent imperial polity. In the strange career of Massachusetts, we see the apotheosis of later Stuart imperialism.

Debates about the motivation for seizing the Bay Colony's charter have raged since at least 1689, when Increase Mather, minister of Boston's North Church and President of Harvard College, lobbied the House of Commons for the restoration of the colony's charter.[1] A committee of the Commons had been charged with drafting a bill to restore England's municipalities to their "ancient rights" by returning the charters that Charles II and James II had seized since 1660.[2] In arguing for Massachusetts Bay's inclusion in the bill, Mather put forward a transatlantic vision of the political history of the 1680s. "The charters in England and New England," he wrote, "were taken away by the same sort of men, and on the same grounds," namely, "the establishing of

[1] R.C. Simmons, "The Massachusetts Charter of 1691" in H.C. Allen and Roger Thompson, Eds., *Contrast and Connection: Bicentennial Essays in Anglo-American History* (Athens, Ohio: Ohio University Press, 1976), 72-74; Michael Garibaldi Hall, *The Last American Puritan: The Life of Increase Mather, 1639-1723* (Middletown, CT: Wesleyan University Press, 1988), 222-229.

[2] *Journal of the House of Commons* (London: His Majesty's Stationery Office, 1802), X: 57 (3/16/1688[/9]), 119-20 (5/2/1689), 329-30 (1/10/1689[/90]). Hence *CJ*. Most of these had been seized in the 1680s.

arbitrary government."[3] Just as William of Orange and the people of England had risen up to deliver "the Kingdom, and the churches of God, from popery, slavery, and arbitrary power," so had the colonists shown a "unanimous inclination" in overthrowing James's government in New England.[4] To Mather, this shared history of tyranny and revolution entitled Massachusetts to a share in the restoration of charters.[5] Yet while Mather succeeded in swaying the Commons's committee, his argument fell flat in the Lords.[6] There, a powerful bloc of officials from Whitehall, many of whom had been involved in the seizure of the colony's charter, told a very different story. The charters of the plantations, wrote Attorney General George Treby, were "taken away upon quite different reasons from those in England," chief among them the constant violations of the Navigation Acts.[7] For contemporaries, as for later historians, the campaign against Massachusetts Bay probed at the heart of the Restoration imperial project: just what were colonies, and what purpose were they meant to serve?

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[3] [Increase Mather], *A Further Vindication of New-England, from False Suggestions in a Late Scandalous Pamphlet, pretending to Shew, the Inconvenience of Joining the Plantations Charters with Those of England*, 2. A photostat of this broadside is in Kenneth B. Murdock, *Increase Mather: The Foremost American Puritan* (Cambridge, MA: Harvard University Press, 1925), between pages 222-223; Increase Mather, *A Brief Relation of the State of New England, from the Beginning of that Plantation to this Present Year, 1689* (London: Richard Baldwin, 1689), 14.

[4] Mather, *Brief Relation*, 11-12; [Cotton Mather et al.], *Declaration of the Gentlemen, Merchants, and Inhabitants of Boston, and the Country Adjacent* ([Boston: Samuel Green, 1689]), 1-3. Other inhabitants of Massachusetts made similar claims. "Simon Bradstreet to [Richard?] Hampden" (6/8/1689) Boston Public Library (BPL) MS Am. 1502, VII: 86; "Thomas Danforth to Thomas Hinckley" (4/20/1689) BPL, Ms. Am. 1508, II: 29.

[5] Increase Mather, *A Narrative of the Miseries of New-England* (London: Richard Janeway, 1688), 6; Increase Mather, *New England Vindicated* (London: 1689), 8. A copy is in the Kent History and Library Centre (KHLC) among the papers of committee member Thomas Papillon, U1015/O18/18.

[6] *CJ*, X: 57, 329-30; Increase Mather, *The Present State of the New-English Affairs* (Boston: Samuel Green, 1689); Felix JH Skene and Edward Fairfax Taylor, *Historical Manuscripts Commission, Twelfth Report, Appendix, Part VI: The Manuscripts of the House of Lords, 1689-1690* (London: Her Majesty's Stationery Office, 1889), 432. The Bill for Restoring Corporations ultimately failed to become law, as Whigs and Tories in Parliament struggled over what to do with Stuart collaborators.

[7] [George Treby], "Considerations Humbly Offered to the Parliament Shewing that those Charters Relating to the Plantations were taken away upon Quite Different Reasons from those in England" (ca. Jan 1689/90) in William Henry Whitmore, Ed. *The Andros Tracts* (New York: Burt Franklin, 1874), III: 7-8; "[Sir Robert Southwell?] to the Earl of Nottingham" (3/23/1688[/9]) Huntington Library (Huntington), mssBL 418. See also *A Short Discourse Shewing the Great Inconvenience of Joining the Plantation Charters with those of England in the General Act of Restoration* (London: J. Prideaux, 1689).

Most 20th century historians followed Treby's lead in insisting that Massachusetts lost its charter as part of a conflict between an independently-minded colony jealous of its peripheral autonomy and an imperial center eager to exploit its overseas empire. For many historians, particularly those writing earlier in the century, the crux of the issue was colonial resistance to the Navigation Acts and the danger Massachusetts posed to the development of England's "commercial plans."[8] Over time the emphasis shifted from economics to sovereignty, as historians began to situate disputes over commercial regulation within a broader conflict about the nature of the imperial constitution.[9] Yet whether focused on sovereignty or commerce, these interpretations centered problems of imperial governance, novel problems supposedly without parallel in England.[10] Concerning Mather's alleged connection between the loss of charters in England and America, historian Michael G. Hall summarizes this historiography neatly: "nothing more than a superficial connection has been shown… and the issues involved were quite different."[11]

More recent historiography has remained sensitive to the challenges of imperial governance but has augmented the analysis by demonstrating numerous connections between events in England and the colonies. Much of this historiography has shown how transatlantic

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[8] Viola Florence Barnes, *The Dominion of New England: A Study in British Colonial Policy* (New Haven: Yale University Press, 1923), 10, 29; Charles McClean Andrews, *The Colonial Period of American History* (New Haven: Yale University Press, 1938), IV: 140-142, 150; Michael Garibaldi Hall, *Edward Randolph and the American Colonies, 1676-1703* (New York: Norton, 1960), 8-11, 55-59, 67-74; Richard S. Dunn, "Imperial Pressures on Massachusetts and Jamaica, 1675-1700" in Alison Gilbert Olson and Richard Maxwell Brown, *Anglo-American Political Relations, 1675-1775* (Rutgers: Rutgers University Press, 1970), 52-54, 57-60, 62-63; Richard R. Johnson, *Adjustment to Empire: The New England Colonies, 1675-1715* (Rutgers, NJ: Rutgers University Press, 1981), 26.
[9] Jack P. Greene, *Peripheries and Center: Constitutional Development in the Extended Polities of the British Empire and the United States, 1607-1788* (New York: Norton, 1990 [1986]), 12-18; Philip S. Haffenden, "The Crown and the Colonial Charters, 1675-1688: Part I" *The William and Mary Quarterly* Vol 15, no. 3 (July 1958): 297-300; Stephen Saunders Webb, *1676: The End of American Independence* (Syracuse, NY: Syracuse University Press, 1984), 221-244. Wesley Frank Craven acknowledges the difficulty of drawing a sharp line between issues of commerce and sovereignty in the attack on Massachusetts Bay. Craven, *The Colonies in Transition, 1660-1713* (New York: Harper Torchbooks, 1968), 169-170.
[10] Greene, *Peripheries and Center*, ix, 7-12.
[11] Hall, *Edward Randolph*, 91.

networks of religious identity, political ideology, news, and commerce bound together English subjects across the empire.[12] "Three thousand miles of ocean was not enough to insulate colonists in America from ideas and events at home," wrote David S. Lovejoy.[13] As Owen Stanwood and others have shown, the colonists of New England held a deeply partisan view of events in the metropole, eager to see liberty for fellow nonconformists and fearful of "popery and arbitrary government."[14] Yet this was a double-edged sword – if colonies like Massachusetts Bay shared elements of the religious and political outlook of England's Whigs, they also shared the enmity of the Tories and the Stuart monarchs. As a result, most recent historiography describing the loss of the Massachusetts charter has viewed it as part of a broader project to "undermine independently chartered forms of power everywhere within the king's dominions."[15]

Although Atlanticism has greatly enhanced our understanding of the causes and context of the Massachusetts charter conflict in the 1680s, the legal and institutional mechanisms of the Tory Reaction have generally not been incorporated into this framework. Indeed, most scholars of colonial Massachusetts tend to describe the seizure of municipal charters and the

[12] J.M Sosin, *English America and the Restoration Monarch of Charles II: Transatlantic Politics, Commerce, and Kinship* (Lincoln, NE: University of Nebraska Press, 1980), 1-4, 273-301; Francis J. Bremer, "Increase Mather's Friends: The Trans-Atlantic Congregational Network of the Seventeenth Century" *Proceedings of the American Antiquarian Society* 94, no. 1 (April 1984): 74-81; David Cressy, *Coming Over: Migration and Communication between England and New England in the Seventeenth Century* (Cambridge: Cambridge University Press, 1987), vii-x, 213-262.

[13] David S. Lovejoy, *The Glorious Revolution in America* (Wesleyan, CT: Wesleyan University Press, 1987 [1972]), 160-173.

[14] Owen Stanwood, *The Empire Reformed: English America in the Age of the Glorious Revolution* (Philadelphia: University of Pennsylvania Press, 2011), 5-21, 25, 27-30, 48-53.

[15] Mark Peterson, *The City-State of Boston: The Rise and Fall of an Atlantic Power, 1630-1865* (Princeton, NJ: Princeton University Press, 2019), 158-160 (quote); Lovejoy, *Glorious Revolution in America*, 167; Jenny Hale Pulsipher, *Subjects Unto the Same King: Indians, English, and the Contest for Authority in Colonial New England* (Philadelphia: University of Pennsylvania Press, 2007), 246-248; Stanwood, *Empire Reformed*, 49-50; Adrian Chastain Weimer, *A Constitutional Culture: New England and the Struggle Against Arbitrary Rule in the Restoration Empire* (Philadelphia: University of Pennsylvania Press, 2023), 262-263. Historians of English municipalities have sometimes approached this claim from the other side: see Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: Cambridge University Press, 1998), 236.

establishment of royal absolutism in England in brief allusions based on secondary sources.[16] This historiographic reliance cuts against otherwise transatlantic interpretations of the problems which faced Massachusetts Bay and other corporate colonies, suggesting as it does that despite the central significance of political, commercial, or religious networks to the struggles of the 1680s, the institutions involved were not meaningfully linked.[17] Yet the political and religious connections which Atlanticists have been at pains to document intersected with the institutions of government in England and the empire in ways which invite us to place the institutional reform of England and (some of) its overseas possessions into a common frame: that of the chartered corporation.

The literature on chartered corporations has experienced a renaissance in recent decades.[18] Since the 1990s, historians of early modern England have emphasized the ways that corporate boroughs shaped English political culture, helping to fuel what Phil Withington has called a "politics of commonwealth," characterized by a broad-based attachment to local self-government, community, and "civility."[19] Recently, historians of the empire have begun to

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[16] Lovejoy's account of the attack on municipalities in England is largely drawn from David Ogg, *England in the Reign of Charles II* (Oxford: Clarendon Press, 1934). Lovejoy, *Glorious Revolution in America*, 167n12, 168n13. More recent accounts usually cite Halliday: Stanwood, *Empire Reformed*, 227n2; Peterson, *City-State of Boston*, 658-659n51; Weimer, *Constitutional Culture*, 344n22. Halliday in turn bases his account of the colonial situation on Sosin's *English America and the Restoration Monarchy of Charles II* and Johnson's *Adjustment to Empire*: Halliday, *Dismembering*, 236n157.

[17] This tension reflects the traditional Atlanticist focus on "networks" as opposed to "formal institutional structures." Bernard Bailyn, *Atlantic History: Concept and Contours* (Cambridge: Harvard University Press, 2005), 5, 48-51, 59-61, 100. Recently, some scholars of the British Empire have urged the recentering of state "institutions and infrastructure." Steven Pincus, Tiraana Bains, & A. Zuercher Reichardt, "Thinking the Empire Whole" *History Australia* 16, no. 4 (2019): 611-2, 617-8.

[18] Much of the recent scholarship self-consciously draws on the work of late 19th- and early 20th-century legal pluralists, especially Otto Gierke, *Political Theories of the Middle Age*, trans. F.W. Maitland (Cambridge: Cambridge University Press, 1900); F.W. Maitland, *State, Trust, and Corporation*, edited by David Runciman and Magnus Ryan (Cambridge: Cambridge University Press, 1998); and Harold J. Laski, "The Early History of the Corporation in England" *Harvard Law Review* 30, no. 6 (April 1917): 561-588.

[19] Phil Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge: Cambridge University Press, 2005); Robert Tittler, *The Reformation and the Towns in England: Politics and Political Culture, c.1540-1640* (Oxford: Clarendon Press, 1998); Halliday, *Dismembering*; Catherine F. Patterson, *Urban Patronage in Early Modern England: Corporate Boroughs, the Landed Elite, and the Crown, 1580-1640* (Stanford: Stanford University Press, 1999); Catherine F. Patterson, *Urban Government and the Early Stuart State:*

explore the implications of this work for the study of overseas corporations. Philip J. Stern, the most influential of these scholars, has argued that corporations provided "a familiar way to organize political life in the profoundly unfamiliar circumstances of overseas trade and settlement," particularly in New England where "corporate life was at the heart of… political culture."[20] Yet historians of overseas corporations have generally focused on cataloging the ways that the pressures and opportunities of overseas expansion transformed those bodies into "company-states" possessing "powers and privileges… of a different order" from their metropolitan kin.[21] Less attention has been paid to the enduring connections between English and overseas corporations, or the implications of their shared institutional form for the development of the imperial state.

Placing the dispute over the Massachusetts charter in the context of the corporate policy of the Tory Reaction reveals the ways in which the institutional transformations of the English empire were bound up with political disputes over corporations in England itself. In Massachusetts, as in England, corporate life inspired a devotion to and defense of charter privileges. During the Exclusion Crisis, this devotion became increasingly politicized, as English Whigs and nonconformists came to see corporate autonomy as an essential bulwark against

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Provincial Towns, Corporate Liberties, and Royal Authority in England, 1603-1640 (Woodbridge: Boydell and Brewer, 2022).

[20] Philip J. Stern, "Bundles of Hyphens: Corporations as Legal Communities in the Early Modern British Empire" in Lauren Benton and Richard J. Ross, Eds., *Legal Pluralism and Empires, 1500-1850* (New York: New York University Press, 2013), 32; Philip J. Stern, *Empire, Incorporated: The Corporations that Built British Colonialism* (Cambridge: Belknap Press, 2023), 86.

[21] Stern, "Bundles of Hyphens," 28; Philip J. Stern, *The Company-State: Corporate Sovereignty & the Early Modern Foundations of the British Empire in India* (Oxford: Oxford University Press, 2011), 3-15, passim; Edward Cavanagh, "A Company with Sovereignty and Subjects of its Own? The Case of the Hudson's Bay Company, 1670-1763" *Canadian Journal of Law and Society* 26, no. 1 (April 2011): 25-28; William A. Pettigrew, "Corporate Constitutionalism and the Dialogue between the Global and Local in Seventeenth-Century English History" *Itinerario* 39, no. 3 (December 2015): 487-490; Andrew Philips and JC Sharman, *Outsourcing Empire: How Company-States Made the Modern World* (Princeton: Princeton University Press, 2020), 1-4, 22-29, 209-210; Haig Z. Smith, *Religion and Governance in England's Emerging Colonial Empire, 1601-1698* (Cham, Switzerland: Palgrave Macmillan, 2022), 16-20, 34-35, 71-111, 161-205.

"popery and arbitrary government." The godly of Massachusetts, who had always understood their own corporate charter as the foundation of a Calvinist commonwealth, took to this view readily. Consequently, the Tory Reaction, which in its legal and institutional aspect consisted largely of a project to assert royal authority over autonomous corporate jurisdictions, swallowed Massachusetts alongside its English siblings. Contemporaries rightly situated the loss of the colony's charter in the context of Charles II's increased determination to regulate his overseas dominions beginning in the 1670s. Yet they also recognized that it was part of the broader struggle over corporate autonomy in the 1680s. Hostile figures in Whitehall, sympathetic observers in England, and colonists of all persuasions employed the language of corporation to justify their arguments about the Bay Colony's fate. A comprehensive understanding of the controversy over the Massachusetts charter requires paying careful attention to contemporaneous conflicts over the place of chartered corporations within metropolitan England. The downfall of the Massachusetts Bay Company was bound up with these struggles because it, too, was a struggle for corporate autonomy.

The New Corporate Policy in England

The origins of the project to reform corporate privileges lay in the Exclusion Crisis, a moment which led to political realignment in Whitehall and partisan conflict across the empire. The origins of the Crisis lay in the Restoration settlement, which had allowed several unresolved issues to fester since 1660.[22] The crown was fiscally insolvent and dependent upon Parliament for funding, a position which made it vulnerable to pressure from MPs. More pressing as a daily

[22] The brief narrative provided in these paragraphs is informed by Mark Knights, *Politics and Opinion in Crisis, 1678-1681* (Cambridge: Cambridge University Press, 1994); Jonathan Scott, *England's Troubles: Seventeenth Century English Political Instability in European Context* (Cambridge: Cambridge University Press, 2000), 182-204; and Tim Harris, *Restoration: Charles II and his Kingdoms, 1660-1685* (New York: Penguin, 2006), chs 3-4.

matter was the failure to resolve the problems of division in the Church and Protestant nonconformity. These issues intersected with foreign affairs, most especially the question of whether England should align itself with the Protestant mercantile Dutch empire or the growing military juggernaut of absolutist France. Titus Oates, a serial fraudster, ignited this powder keg in autumn 1678, when he revealed his latest fabrication to Charles II's Privy Council. There was, Oates declared, "a conspiracy of the Jesuits against the life of" the King.[23] This "Popish Plot" found ready acceptance from an English public concerned about the twin specters of "popery and arbitrary government," anxieties which had only grown in the latter half of the 1670s under the administration of the Earl of Danby and alongside the growing power of Louis XIV.[24] In the wake of Oates's testimony a political firestorm erupted which historians have come to call the "Exclusion Crisis." The "Whigs," a broad-based political movement consisting largely of Protestant nonconformists, were especially fearful that a popish successor would follow the example of the Sun King and extirpate the Protestant religion while raising a standing army and securing absolute royal authority.[25] Distrust of court ministers and of Charles's Catholic brother and heir James, Duke of York, led the Whigs to refuse supply to the crown unless Charles accepted limitations on royal independence from Parliament and York's exclusion from the line of succession.[26] They also called for a relaxation of the laws against dissenters, on the theory that defense against popery required an end to Protestant infighting.[27]

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[23] "Mr. Oates &c their Examinations about the Plot" (9/28/1678) TNA, PC 2/66, 392-4. See also John Kenyon, *The Popish Plot* (London: Heinemann, 1972).
[24] Andrew Marvell, *Account of the Growth of Popery and Arbitrary Government in England* (Amsterdam, 1677).
[25] Speech of Henry Capel (4/27/1679) Anchitell Grey, ed. *Debates of the house of Commons, from the Year 1667 to the Year 1694* (London: Printed for D. Henry and R. Cave, 1763), VII: 149; Marvell, *Account of the Growth*, 14; *Popery and Tyranny, or, the Present State of France* (London: 1679), 1; *The Deplorable State and Condition of the Poor French Protestants* (London: Richard Janeway, 1681), 1; William Smyth, *Mr. Smyth's Discovery of the Popish Sham-Plot in Ireland* (London: R. Baldwin, 1681), 2.
[26] "Philo Treby to George Treby" (11/2/1680) Derbyshire RO, D239 MO/1118; Knights, *Politics and Opinion*, 44-47, 67, 79, 82, 84-86.
[27] Harris, *Restoration*, 179-181.

By 1681 Charles had thrown his weight behind the Whigs' enemies. With the help of printers like Roger L'Estrange and Nathaniel Thompson, Charles and his ministers defined the ideology of the "Tory" opposition. The Tories agreed that popery and arbitrary government threatened England, but not in the guise of Louis XIV. The greater danger was from the heirs of Pym, Cromwell, and the old Parliamentarians whom Tories blamed for casting England into chaos in the 1640s. In his *The Parallel*, a pamphlet answering Andrew Marvell's, *Account of the Growth of Popery and Arbitrary Government in England*, L'Estrange compared the cries of "popery and arbitrary government" in 1677 to those of 1640, noting that Parliament, in those days, "instead of setting us right in our religious and civil liberties… left us neither church nor law."[28] To Tories, the security of religion and civil liberty depended on a zealous enforcement of the laws against nonconformists, whose opposition to the established church was inherently seditious. Papists, according to John Nalson, "look upon the church of England… as the only bastion, or bulwark of the Protestant religion" which could only be undermined by Catholic efforts to "divide Protestants among themselves… by raising sects and separations."[29] Furthermore, experience had shown that religious disagreement encouraged Englishmen to quarrel with each other, leading inevitably to civil distempers. For this reason, the King must vigorously enforce the laws against dissent, "the bare relaxing of" which had "cost the life of a prince, the blood of two or three hundred thousand of his subjects, and a twenty-years rebellion."[30] Many across the country

[28] Roger L'Estrange, *The Parallel, or, An Account of the Growth of Knavery under the Pretext of Arbitrary Government and Popery* (London: Henry Brome, 1679), 5. The linkage between the mid-century crisis and the Whigs was the defining rhetorical move of the Tories. See, for example: *Vox Juvenilis: Or, the Loyal Apprentices Vindication of the Design and Promoters of their Late Humble Address to his Majesty* (London: Charles Read, 1681), 1; *Heraclitus Ridens* (London: Benjamin Tooke, 1713 [1681-2]), 10, 14; John Nalson, *A True Copy of the Journal of the High Court of Justice, for the Trial of King Charles I* (London: H.C. for Thomas Dring, 1684), "To the Reader," "To his Royal Highness James, Duke of York, Albany, and Ulster." See also Harris, *Restoration*, chs 4-5.
[29] John Nalson, *Foxes and Fire-Brands* (London: Benjamin Tooke, 1680), preface, 1-5.
[30] L'Estrange, *Observator in Dialogue* #1 (4/13/1681).

were receptive to this message. In Derby, a group of "eminent subjects" procured an effigy of Jack Presbyter, which the common people paraded through the streets with cries of "Remember Forty-One!"[31] In June 1681, an address from the apprentices of London supposedly bearing 18,000 signatures promised to "continue the succession in the right line" and to oppose the dissenters, if necessary, by force of arms.[32] Backed by an increasingly visible popular Toryism, Charles began to strike back against the Whigs and nonconformists who had whipped England into a frenzy during the Exclusion Crisis. This "Tory Reaction" would continue for the remainder of Charles's reign.

Suppressing the Whigs was easier said than done. Many were citizens of England's municipal corporations, where jurisdictional autonomy insulated them from royal justice. These corporations, many of which were empowered by their royal charters to elect their own sheriffs – officials charged with serving royal writs and empaneling juries – proved a haven for nonconformists, despite various statutes intended to keep them out.[33] Charles's attempts to enforce the laws against dissenters and to punish his Whig rivals were stymied by this jurisdictional autonomy. Nowhere was this problem more pressing than in London, where, in 1681, two minor Whigs – Stephen College and John Rouse – were exonerated by Middlesex grand juries on treason charges on the grounds that there was insufficient evidence to bring them to trial – a return of *ignoramus*.[34] Tories in and out of Whitehall were incensed. The jurors had

[31] Nathaniel Thompson, *The Loyal Protestant and True Domestic Intelligence* #30 (6/18/1681).
[32] "John Ellis to ?" (7/2/1681) in *Calendar of the Manuscripts of the Marquess of Ormonde, K.P., Preserved at Kilkenny Castle. New Series* (London: His Majesty's Stationery Office, 1911), VI: 91 (hence *HMC Ormonde NS*); "Thomas Deane to the King" (1682) TNA, SP 29/421/2, f 82r.
[33] "Act for the Well Governing and Regulating of Corporations," "Act for Restraining Non-Conformists from Inhabiting in Corporations" *The Statutes of the Realm* (London: Dawsons of Pall Mall, 1963), V: 321-3, 575.
[34] *A Particular Account of the Proceedings at the Old Bayly, the 17 & 18 of this Instant October* (London: Thomas Newcomb, 1681); Gilbert Burnet, *Bishop Burnet's History of His Own Time* (Oxford: Clarendon Press, 1823), II: 283-4; Newdigate Newsletter (10/18/1681) Folger Shakespeare Library (FSL), LC 1138. College was retried at Oxford, before Chief Justice North, and executed. *Cobbett's Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors* (London: T.C. Hansard, 1811), VIII: 550-723 (*ST*). See also

acted "against fullest evidence and direction of the court," wrote Attorney General Robert Sawyer.[35] "No punishment," wrote L'Estrange, "could be too severe for such a jury" as College's, that would "leap all the bars of Law and Religion" and thereby destroy the King.[36] As long as corporations elected their own sheriffs and empaneled their own juries, Charles's kingdom would remain outside of his control.

That English Whigs felt comfortable using their corporate privileges to thwart the royal will speaks to the distinctive political culture corporate charters inspired.[37] For the citizens and freemen of early modern England, charters were the focus of civic pride, the instruments which entitled Englishmen to form together as a *communitas*, a social body with a common identity and will. They both enabled local self-government and marked freemen as worthy of self-rule. Corporators jealously guarded these privileges. Thomas Papillon, MP for Dover, advised his fellow MP that they were "specially and particularly obliged to defend the rights and privileges of the corporation." To allow themselves to be "imposed upon," even from the court, "would be an undoubted infringement of the charter," and would "give up the privilege of the corporation."[38] Sandwich MP John Thurbarne was "a bold assertor" of the borough's privileges, accounting it an honor to have been "born a member" of the corporation.[39] Mayors and freemen were bound by oath to "maintain the peace, liberties, and prosperity" of their boroughs.[40] At

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Robert Pickavance, "The English Boroughs and the King's Government: A Study of the Tory Reaction, 1681-85" (PhD Diss, Oxford University, 1977), 107-111.

[35] "Robert Sawyer to Jenkins" (7/9/1681) TNA, SP 29/416, f 86r.

[36] L'Estrange, *Observator in Dialogue* #33 (7/31/1681). *Ignoramus* juries were a common theme in Tory songs and verse: *A Collection of 86 Loyal Poems, all of them Written Upon the Two Late Plots* (London: N[athaniel] T[hompson], 1685), 78-80, 85, 145, 198, 201, 241-2, 327, 330.

[37] Withington, *Politics of Commonwealth*, passim.

[38] "Thomas Papillon to Captain Stokes" (5/6/1680) KHLC, U1015/O25 doc 4, doc 10.

[39] "John Thurbarne to Sandwich" (2/4/1680[/1]) KHLC, Sa/C4/28.

[40] *The Speech of the Right Honorable Sir Patience Ward, Lord Mayor Elect, at Guild-Hall* (London: Thomas Collins and Brabazon Aylmer, 1680), 2; *The City of London's Present Danger* (London: Francis Smith, 1682), 1; *Reflections on the City-Charter, and Writ of Quo Warranto* (London: E. Smith, 1682), 31.

times, freemen could describe corporate franchises in language akin to property. William Prynne, former firebrand and MP for Bath, reckoned that "every magistrate, officer, freeman, citizen, burgess, member of any city, borough, port or corporation" had "as absolute and good a freehold" in his "office, franchise, and liberty" as any "freeman of England hath in his lands."[41] As the crown began seizing municipal charters during the Tory Reaction, some Whigs turned to sedition to defend their privileges. In Bristol and London, libels circulated asking Charles II "Quo Warranto art thou king of England?" referencing the legal instrument through which Charles II asked "by what warrant" his subjects claimed to be a corporation.[42] The Rye House Plot to assassinate the King and the Duke of York in 1683 appears to have been motivated in part by the "popish and arbitrary design in taking away charters."[43] For many Englishmen, while kings might create corporations, once granted they belonged to the freemen and citizens who received them. Empowered by royal charter to govern their communities, England's Whigs used their privileges to do what they believed was the most important work of government – thwarting popery and arbitrary power.

The scene began to turn in November, when the Earl of Shaftesbury was arraigned on treason charges before a Middlesex grand jury. The government claimed an "Association" pledging to take up arms to oppose the succession of the Duke of York had been found in a locked box in Shaftesbury's closet.[44] Shaftesbury was the most prominent enemy of Charles's government and

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[41] [William Prynne], *Summary Reasons… Against the New Intended Bil for Governing and Regulating Corporations* (London: [Prynne], 1661).
[42] "Vox Populi, Vox Dei" (2/11/1681[/2]) TNA, SP 29/418, f 199r; "The Examen of the Late Quo Warrantos to Several Corporations of England" (1681/2?), "Libel Addressed to Sam's Coffee-House" (1681/2?) TNA, SP 29/421/2, ff 242r, 244r. Traditionally, *Quo Warrantos* were prerogative writs which asked "by what warrant" a subject claimed to exercise some franchise, such as being a corporation. By the 16th century, *Quo Warrantos* proceeded by information, a shift which enabled subjects to bring them in a quasi-criminal fashion against corporations. See Halliday, *Dismembering*, 26-27, 162-164.
[43] "William Stapleton to Leoline Jenkins" (1/25/1683[/4]) TNA, SP 29/436, f 153r; *ST*, IX: 391.
[44] *The History of the Association* (London: Richard Janeway, 1682), 18-21.

the foremost exclusionist; his successful indictment would be a grievous blow to the Whigs. Consequently, London's two Whig Sheriffs, Samuel Shute and Thomas Pilkington, worked to save their champion from the King's wrath, empaneling a partisan jury packed with Whigs and nonconformists.[45] On November 24 the Old Bailey was dense with "a great many persons of quality as well as the common sort" of "rabble," who "shouted and hooted and threw dirt at" the King's witnesses against the Earl. As with Rouse and College, the grand jury returned an *ignoramus* verdict, finding insufficient evidence to try the Earl for treason.[46] Encouraged by Shute and Pilkington, London's Whigs proceeded to celebrate, singing songs and marching in the streets throughout the night, lighting bonfires and stopping carriages demanding money "to drink my lord Shaftesbury's health."[47] London's Whig leadership had successfully used their corporate autonomy to protect the King's greatest domestic enemy from royal justice.

Shaftesbury's *ignoramus* made asserting royal supremacy over subordinate corporate jurisdictions a top priority for the government. An anonymous letter to Secretary of State Leoline Jenkins outlined the dire situation Charles had found himself in: "Tis now come to a civil war, not with the sword, but law. And if the King cannot make the judges speak for him, he will be beaten out of the field."[48] The defiant celebrations following Shaftesbury's *ignoramus* showed that the King had lost control of his capital. It would be the last time Charles would allow

[45] Two members who attended conventicles were initially part of the jury before being removed by the justices. "Earl of Longford to Ormond" (10/18/1681) in *HMC Ormond NS*, VI: 197-8. The Whig candidates for sheriff in 1682, Thomas Papillon and John DuBois, both served on the jury, as did dissenters and MPs Edward Rudge, John Hall, and Samuel Barnardiston. Entries for each are in *History of Parliament Online*.
[46] Newdigate Newsletter (11/24/1681) FSL, L.C.1152; *ST*, VIII: 805-811, 821.
[47] Roger L'Estrange, "Narrative of What Happened in the City the Night Before" (11/25/1681) TNA, SP 29/417, f 255r; "Earl of Longford to Ormond" (11/26/1681) and "Earl of Longford to Ormond" (12/13/1681) *HMC Ormonde NS*, VI: 256-7, 257-8. For the Whig celebrations, see the commemorative medallion Shaftesbury made of his deliverance, featuring light breaking over the Thames and the inscription "LAETMUR" – "rejoice!" – as well as a poem celebrating his release. "Shaftesbury Medallion" (11/24/1681) TNA, PRO 30/24/43/66; "A Poem to the Right Honorable Anthony, Earle of Shaftesbury, Upon his Enlargement out of the Tower" (1681) TNA, PRO 30/24/43/68.
[48] "Advice to Jenkins about Brown, Clerk of the Cooper's Company" (Nov 1681) TNA, SP 29/417, f 407r-v.

himself to be thwarted by the city. "The insolence and riot was so great… and the bonfires were so many," wrote Secretary of State Leoline Jenkins, "that his Majesty is resolved to fall upon the City charter for this misgovernment… and try how far a *Quo Warranto* will work upon their charter."[49] At the same time, the King resolved that "all the dissenters throughout the kingdom would be prosecuted."[50] The royal assault on corporate autonomy had begun.

At the heart of the Tory Reaction's assault on corporate autonomy was the view that the political culture surrounding charters had turned municipalities into miniature republics. If charters were not forfeitable for misuse or abuse, then they erected free states within the kingdom. "The grant of an unconditional charter," wrote Roger L'Estrange, "is the setting up of another supremacy." Whiggish proponents of charter sanctity invited the king "not to trouble himself with the government" and simply "let his people govern themselves."[51] In doing so, they subverted the ends for which their patents had been issued. "Charters," commented one observer, were not granted "to weaken the hands of their prince, but for his support, and for the promoting of order, government, and public peace."[52] The primary legal project of the Tory Reaction would be to return corporate jurisdictions to their due obedience, and make them once again tools of the royal government. The architect of this project would be Chief Justice of the Common Pleas Francis North. North had enjoyed an extraordinary career as a crown lawyer since the Restoration, holding posts as Solicitor- and Attorney-General before his appointments as Chief Justice and Privy Councilor.[53] A self-professed "prerogative man," North believed "the safety of

[49] "Earl of Longford to Ormond" (11/26/1681); "Jenkins to Ormond" (11/26/1681); "Earl of Longford to Ormond" (11/29/1681); ibid (12/3/1681); ibid (12/6/1681); ibid (12/13/1681); ibid (12/17/1681) *HMC Ormonde NS*, VI: 236-7; 238 (quote); 242; 244-5; 249; 257-8; 264.
[50] "Earl of Longford to Ormond" (11/26/1681); ibid (11/29/1681) *HMC Ormonde NS*, VI: 237; 242 (quote).
[51] Roger L'Estrange, *Observator* #363 (6/25/1683); Roger L'Estrange*, The Lawyer Outlaw'd* (London: N[athaniel] T[hompson], 1683), 1-2.
[52] *The Character of an Honest Man* (London: Randal Taylor, 1683), 12.
[53] Paul D. Halliday, "North, Francis, first Baron Guilford (1637-1685)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/20301.

the national religion and property" depended "on the people's dutiful and legal obedience to the crown."[54] As the presiding judge at Shaftesbury's arraignment, North had encouraged the case to go to trial, concerned that the "Association" "tended to treason." In the Old Bailey, he had witnessed firsthand how corporate autonomy could thwart royal justice and threaten the security of the realm.[55] In the months after Charles resolved to seize London's charter, North turned his mind to the question of how to secure royal authority over England's corporations.

In theory, corporations were tools of royal government. It was, North wrote, "by the regal power that all cities and corporations govern their societies," as "nothing but civil power" (typically a royal charter) "could enable them" to govern themselves.[56] As bodies constituted by the king, corporations were all ultimately "parts of the King's ordinary government, detached and entrusted to particular persons, for his ease, and the people's convenience."[57] They were, North argued, "in their nature like offices and officers" governing the realm on the King's behalf.[58] This was especially true of those officials, like sheriffs, involved in doling out royal justice; these figures were "the King's officers, and not officers of the corporation."[59] Grants of corporate autonomy were not unconditional. Monarchs granted these jurisdictions upon "trust that there be justice done, and that the people receive no prejudice."[60] Yet in practice corporations no longer adhered to these standards. Over the centuries, England's monarchs had

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[54] Roger North, *The Lives of the Right Hon. Francis North, Baron Guilford; the Hon. Sir Dudley North; and the Hon. And Rev. Dr. John North, together with the Autobiography of the Author*, Augustus Jessopp, ed. (London: George Bell and Sons, 1890), I: 164, 316. See also the dedication to North in William Sherlock, *The Case of Resistance of the Supreme Powers Stated and Resolved, according to the Doctrine of the Holy Scriptures* (London: Fincham Gardiner, 1684).
[55] *ST*, VIII: 820-1; Newdigate Newsletter (11/24/1681) FSL, L.C.1152.
[56] "Of Government According to the Laws of the Land" Bodleian, MS North b. 8, f397r.
[57] "An Account of Franchises and More Particularly such as are Enjoyed by Spiritual Persons" BL, Add MS 32,520, f67r.
[58] "Reflections Upon Occasion of the Quo Warranto against the City of London" (1681?) BL, Add MS 32,519, f122v.
[59] "About the Election of the Sheriffs of London" (1682?) BL, Add MS 32,518, ff186v-187r, 188v.
[60] "Memorandum on Municipal Corporations" (1682), "Of Franchises" (1682?) BL, Add MS 32,518, f156r; ff182r-v.

created hundreds of "very inconvenient" "peculiar jurisdictions and exemptions" from royal oversight.[61] As North saw it, the use of the shrieval power to empanel partisan juries was a symptom of lax enforcement of corporate law, a usurpation of a royal prerogative made possible by overly generous charters which failed to ensure royal supremacy and sacrificed justice to faction. For the second time in living memory, England's "ancient hereditary monarchy," the "best" form of government, was being threatened by fanatical usurpers.[62]

To preserve England's monarchy, North argued that practice must be brought in line with theory. The charters of England's municipal corporations had granted too much autonomy and would have to be pared back. Around May 1682 North wrote a schema of his program to bring corporate jurisdictions to their due submission. Secretary Jenkins copied this schema into his warrant book, indicating both that North shared it and that it influenced the procedure employed by other officials in Whitehall.[63] North proposed that England's corporations should be compelled to surrender their charters and issued new ones which would preserve royal supremacy by requiring royal approval for individuals elected to key corporate offices such as mayor, sheriff, or recorder. "Good corporations" which surrendered voluntarily would receive new charters with additional privileges such as "fairs or markets or jurisdiction in civil causes." Their goods, chattels, lands and debts would be preserved to them, as would all those privileges not deemed "inconvenient." Of those "evil corporations," which refused to surrender, North wrote ominously that they ought to "take care of these consequences in standing out." Refusal to surrender would mean going to trial, where corporate officeholders would have to demonstrate

[61] "Popish Inventions How Troublesome", "Of Corporations" (c. May 1682) BL, Add MS 32,518, f8r; f183v. The argument that corporate autonomy threatened royal government had been made earlier in the century by royalists like Thomas Hobbes and the Duke of Newcastle. Hobbes, *Leviathan*, Edwin Curley, ed. (Indianapolis: Hackett, 1994 [1651]), 218; William Cavendish, "Advice to King Charles II" (1660) Bodleian, MS Clarendon 109, 47.
[62] "Of the Monarchy of England" BL, Add MS 32,518, ff64v-65r.
[63] "Of Corporations" (c. May 1682) BL, Add MS 32,518, f183r-184v; Jenkins' warrant book, TNA, SP 44/66, 89-90.

impeccable records, "without respect to the value of the offence," to show that they had not violated the least terms of their charters. Losing in court would leave these corporations vulnerable to restructuring by the crown, without new grants of privileges or fairs.[64] Although there would be some variations in the provisions of the new charters, North's call for a sweeping assault on "evil corporations" and for a program to more firmly secure their direct dependence upon the crown would define the Tory Reaction.[65]

No Other than a Corporation

The assault on the Massachusetts charter in the 1680s grew out of the metropolitan project to curb corporate autonomy, particularly where it was in the hands of protestant nonconformists. The ministers, institutions, and political dynamics involved in both contexts made applying this project to Massachusetts an intuitive choice. Members of the Lords of Trade, the special committee of the Privy Council charged with managing overseas affairs, were intimately familiar with the ongoing project to regulate corporate autonomy in England, not least through the influence of Francis North, who served on the body from October 14, 1680, until his death in 1685. North was the Lords' foremost legal expert – the other members were a motley crew of military officials, aristocratic grandees, clergymen, and merchants.[66] Legal questions about the empire were frequently referred to the Lord Chief Justice. North was brought onto the

[64] "Memorandum on Municipal Corporations," "Of Franchises" BL, Add MS 32,518, f 156r, ff 182r-184v.
[65] North had initially recommended that the King have the power to veto or approve elected officeholders, but by mid-1683 it had become standard for the new charters to have corporate magistrates serve at the royal pleasure, allowing monarchs to remove them at will. Compare the warrant for Hereford (4/13/1682) to that for Norwich (2/21/1683) TNA SP 44/66, 74-75, 196. See also Halliday, *Dismembering*, 220-3.
[66] "Minutes of the Committee of Trade" (11/14/1680) TNA, CO 391/3, 216. North was an active member, especially after his appointment as Lord Keeper. Ralph Paul Bieber, *The Lords of Trade and Plantations* (Allentown: H. Ray Haas & Co., 1919), 91-2. Biographies of all members from this period can be found in the *Oxford Dictionary of National Biography*, oxforddnb.com.

Lords to advise on a set of laws having to do with revenue in Jamaica.[67] Shortly thereafter, he was tasked with revising William Penn's patent for Pennsylvania to ensure that it would "consist with the king's interest." His revisions betray his insistence on establishing royal supremacy overseas. North suggested a potent clause that would have made Penn and his heirs "subordinate and subject to the power and regulation of the Lords of the Privy Council" in all "matters … ecclesiastical, civil and military," although the clause was ultimately dropped.[68] The following year, he was asked to weigh in on the question of whether naturalization in Virginia applied to all other colonies (he found it was "only local").[69] In December 1682, just as he was being appointed Lord Keeper, Clerk of the Lords of Trade William Blathwayt asked North to review a declaration from the Jamaica Assembly declaring the Laws of England in force in the colony, to see what "inconvenience[s] may arise from… the said act."[70] North was the premier legal expert of the Tory Reaction, and from his posts on the Privy Council and the Lords of Trade he shaped the development of the law throughout England and its empire. With the help of Secretary Jenkins and Attorney General Sawyer, North was in the perfect position to secure the King's dominance over corporations across the empire, from Maidstone to Massachusetts.[71]

Royal officials understood Massachusetts Bay's relationship to the crown through the well-established framework of the royally chartered corporation. The colony's charter, after all, had made the Massachusetts Bay Company a "body corporate and politic," empowered to act as

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[67] "Minutes of the Committee of Trade" (11/18-27/1680) TNA, CO 391/3, 217-221.
[68] Richard S. Dunn and Mary Maples Dunn, eds. *The Papers of William Penn* (Philadelphia: UPenn Press, 1982), II: 57-59.
[69] "Minutes of the Committee of Trade" (6/7-28/1682) TNA, CO 391/4, 27, 32, 34; "Blathwayt to North" (6/7/1682) TNA, CO 1/48, ff 309r-311v.
[70] "Minutes of the Committee of Trade" (12/16/1682) TNA, CO 391/4, 93-4; "Blathwayt to North" (12/18/1682) TNA, CO 138/4, 77-78.
[71] North seems to have expected similar obedience from the joint stocks. North, "Objections to the Dissolving the East India Company and Considerations thereupon, and the Advantages by Dissolving or Regulating them" (c. 1682) BL, Add MS 32,518, ff 255r-257v. I intend to explore the crown's developing relationship with the joint stocks elsewhere.

"any other corporation or body politic of [England] may do."[72] References to the colony's corporate status permeate the writings of royal officials in the decades after the Restoration. The members of the Nicolls Commission in the 1660s felt compelled to remind the colony's governor and council that "the king did not grant away his sovereignty over you when he had made you a corporation."[73] Edward Randolph, Collector of the Customs for New England, frequently referred to the colony as the "Corporation of Boston."[74] In 1677, when a group of crown attorneys examined the colony's relationship to the crown and to its neighbors, the proprietary colonies of Maine and New Hampshire, they doubled down on this language.[75] The "Corporation of Massachusetts Bay in New England," according to Solicitor General Francis Winnington, possessed "the common privileges of other corporations," and was, like other corporations, obliged "to pursue the methods and rules the laws of England direct."[76] Richard Raynsford, Chief Justice of King's Bench, and Francis North both weighed in as well. Charles I's charter to the colony had "made them a corporation, and gave them power to make laws for the governing of the lands and the people" in New England.[77] An unsigned memo, probably written by Robert Southwell, put this point especially clearly. Whatever their pretentions, the Massachusetts colony

[72] "Charter of Massachusetts Bay" (3/4/1628[/9]) *Federal and State Constitutions*, III: 1851-1853.
[73] "The King's Commissioners to the Governor and Council of Massachusetts" (7/16/1665) in E.B. O'Callaghan, ed., *Documents Relative to the Colonial History of the State of New York* (Albany: Weed, Parsons, 1853), III: 99.
[74] "Randolph's Report to the Committee for Trade and Plantations" (10/12/1676) Robert Noxon Toppan, ed. *Edward Randolph, including his Letters and Official Papers* (Boston: Prince Society, 1898), II: 225 (hence *Randolph*); "Praying a Quo Warranto Against the Government of the Massachusetts" (4/6/1681), "Randolph to Jenkins" (6/14/1682) *Randolph*, III: 90; 159-60.
[75] For context, see Richard R. Johnson, "Robert Mason and the Coming of Royal Government to New England" *Historical New Hampshire* 35, no. 4 (Winter 1980): 361-390.
[76] "The Case upon the Patent of the Corporation of Massachusetts Bay in New England by Mr. Solicitor General Francis Winnington" (8/2/1677) TNA, CO 1/41, ff 112r-v.
[77] "Report of Lords Chief Justices Sir Richard Raynsford and Sir Francis North to the Lords of Trade and Plantations" (7/16/1677) TNA, CO 1/41, f 52r.

was not a "commonwealth or a free state." They were, instead, "no other than a corporation, restrained by their charter to act according to the course of corporations in England."[78]

These references to corporations demonstrate the intellectual scaffolding the Lords of Trade used to understand Massachusetts Bay's constitutional relationship to the crown. The colony's authority came from its royal charter of incorporation, which carried with it the same terms of obedience that, after 1681, officials in Whitehall were increasingly determined to see enforced. Corporate power, after all, was royal power. A corporate view of Massachusetts likewise defined the processes required to bring the colony to account. If Massachusetts was a corporation of England, empowered to govern by royal charter, then like any such polity it acted on trust from the King and was "answerable unto [him] for all mismanagement," questionable "by the King's writ in Westminster Hall."[79] If Massachusetts had violated the terms of its patent and acted contrary to the King's grant, corporate law provided the remedy. As the Lords of the Privy Council set about securing royal authority over municipal corporations in England, the question before the Lords of Trade was not whether corporate law applied to the Massachusetts Bay Company, but whether the Company was one of the "evil corporations" of which North was so concerned.

The Lords of Trade certainly understood Massachusetts as an "evil corporation." Whitehall had grown increasingly frustrated with the Bay Colony's resistance to imperial integration since the Restoration – its constant flouting of the Navigation Acts, its territorial aggression towards neighboring colonies and Native nations, and its refusal to submit to royal

[78] [Robert Southwell?], "Memoranda Concerning New England" (7/20/1677) TNA, CO 1/41, ff 74r-76r. These may have been notes Southwell compiled while drafting his "report" at this time. "Minutes of the Committee for Trade" (7/30/1677) TNA, CO 391/2, 262-264.
[79] "Of Government According to the Laws of the Land" Bodleian, MS North b. 8, f397r; "Of the Prerogative" BL, Add MS 32,520, f32v. This view was legally orthodox: Matthew Hale, *The Prerogatives of the King*, DEC Yale, ed. (London: The Selden Society, 1976), 242-4.

oversight.[80] Yet the Tory-dominated Lords of Trade in the 1680s viewed these colonial issues through the prism of seditious nonconformity and the politics of the Exclusion Crisis.[81] The prominence of this view among the Lords owed much to the influence of Edward Randolph, the royal messenger turned customs collector who served as their main source of information about the region. According to Randolph, the Bay Colony's government was in the grip of a "faction," headed by Deputy Governor Thomas Danforth and Reverend Increase Mather. This "faction" had come into power "in the time of rebellion in England," when "Sir Henry Vane's and Hugh Peter's disciples and friends got into the government," and had ruled it ever since.[82] The colony had welcomed the regicides William Goffe and Edward Whalley in the 1660s, and throughout the 1670s had been governed by John Leverett, who had "served in the late rebellion under the usurper Oliver Cromwell."[83] If English Tories felt '41 had come again, in New England the Restoration had never happened.

As portrayed by Randolph, the spirit of independency and sedition united the Massachusetts "faction" with England's Whigs. In part, this was because dissent from the established church tended towards sedition in civil affairs. The faction, Randolph wrote, was "inspired and encouraged by the non-conformists in England" who "keep up [their] minds by sending over… all sorts of scandalous papers."[84] Edward Cranfield, the royal governor of New Hampshire, similarly thought that Boston's leaders had a "general aversion" to "his majesty's interest… encouraged and buoyed up by the nonconformist party in England."[85] Even concerns

[80] The historiography cited in notes 8-9 focuses on these themes.
[81] Stanwood, *The Empire Reformed*, 1-27.
[82] "Randolph to Jenkins" (6/14/1682) *Randolph*, III: 161
[83] "Randolph to Coventry" (6/17/1676), "Randolph's Report to the Committee for Trade and Plantations" (10/12/1676), "Report from Randolph Concerning the Massachusetts Government" (4/18/1678) *Randolph* II: 207-8, 233, 236, 313-4; "Randolph states that Massachusetts intends to Defend her Charter at Law" (6/12/1683) *Randolph*, III: 234.
[84] "Randolph to Jenkins" (4/11/1682), ibid (6/14/1682), ibid (8/7/1682) *Randolph*, III: 128, 160, 186-7.
[85] "Edward Cranfield to Jenkins" (2/20/1682[/3]) TNA, CO 1/51, ff 76r-v.

seemingly unique to the colonial context were colored by the transatlantic spirit of rebellion. When Randolph seized several ships in violation of the Navigation Acts, local juries refused to convict the smugglers "in very plain cases," because, he claimed, they were "encouraged by the arbitrary and successful verdict of the Lord Shaftesbury's jury at the Old Bailey" which had "become a leading precedent to the factious here."[86] The impression that the Massachusetts "faction" was in league with rebels against royal authority in Britain was strengthened in the aftermath of the Covenanter Uprising of 1679, when several of the colony's leading magistrates and ministers took in a fugitive from Scotland who claimed to have participated in the rebellion and insinuated he had aided in the assassination of the Archbishop of St. Andrews. Despite frequent commands from the Lords of Trade, the colony refused to send the man home.[87] This impression was all but confirmed in July 1684, when a fraudulent letter purporting to be from Increase Mather came to the Lords' attention.[88] The letter lamented the martyred lords Russell and Essex, executed for their involvement in the Rye House Plot, while wishing health to "our good friend," the plotter Robert Ferguson, and salvation to "that great friend of God's cause, the Lord Shaftesbury," who had died the previous January.[89] The Tory press in England made much of this letter. Mather was, wrote Roger L'Estrange, "a New England Ferguson," linked by

[86] "Randolph to Jenkins" (11/13/1682), "Randolph to the Committee for Trade and Plantations" (12/30/1682) *Randolph*, III: 213-4, 217-8.
[87] "Petition of Francis Branson to the King" (3/17/1681[/2]) TNA, CO 1/48, ff 177r; Francis Branson, "Deposition Touching Kelso" (1/4/1680[/1]) TNA, CO 1/48, ff179r-v; "A Short Account of the Particulars Wherein his Majesty has at Divers Times Required the Compliance of the Colony of the Massachusetts Bay in New England, with Several Instances of their Late Unwarrantable Proceedings" (8/31/1682) TNA, CO 1/49, ff 166v-167r.
[88] The authorship of this letter has been disputed since 1684. Mather suspected Randolph, or his brother Bernard, was the author, a suspicion which led Randolph to sue him for defamation in 1687. "Increase Mather to Joseph Dudley" (11/10/1684) TNA, CO 1/65, ff 327r-328r; "Increase Mather to Joseph Dudley" (1/24/1686[/7]) *Collections of the Massachusetts Historical Society (CMHS*) (Boston: MHS, 1868), series 4, VIII: 112-113. The observation of the editors of the *CMHS* that the biblical quotations are drawn from the Book of Common Prayer (ibid, 109) coupled with Mather's own evidence in the letter to Dudley, convince me that it was not written by him. See also Hall, *Last American Puritan*, 192-4, 210-211.
[89] "--- to ---" (12/3/1683) *CMHS* 4, VIII: 104-7.

"affections, and confederacy" with the conspirators in England. "Their cause was his," L'Estrange concluded.[90]

While the forgery probably did not accurately reflect Mather's view on the Plot, it fit a view of Massachusetts which had coalesced in Whitehall by 1684.[91] The colony fit the broader pattern figures in Whitehall had come to recognize in corporations throughout England. The faction in Massachusetts was a group of nonconformist usurpers, abusing their royal charter to oppose royal authority. Their corporate autonomy enabled them to protect rebels against royal authority and prevented the execution of the king's law. The constitutional problem posed by Massachusetts was thus the same as that posed by corporations nearer to Whitehall: their grants had been too broad; kings had conferred upon them too much autonomy. The assault on Massachusetts Bay was not merely a related attack on colonial liberties that paralleled the assault on corporations in England. Rather, it was part of a single process, executed by the same figures in Whitehall, aimed at securing royal authority over corporations in England and its empire simultaneously.

Corporate Political Culture in Massachusetts Bay

In Massachusetts, the political culture and devotion to charter privileges which incorporation engendered were, if anything, more intense than in England's municipalities. The charter was a common touchstone in the colony's civil and religious life. At least three personal manuscript copies survive, chiefly in the papers of colonial leaders.[92] Thomas Danforth, the

[90] *Observator* #176 (12/1/1684); *Observator* #173 (11/26/1684); *Observator* #174 (11/27/1684).
[91] In fact, Mather's mail was already being intercepted. "Certificate regarding Increase Mather, books and papers to Kick" (3/28/1684) TNA, SP 44/70, 4. Some of Mather's correspondents lamented the plot as "the greatest advantage to our Popish adversaries that ever God's providence put into their hands." "Ichabod Chauncy to Increase Mather" (8/12/1683) *CMHS* 4, VIII: 620.
[92] *Proceedings of the Massachusetts Historical Society*, 62 (Oct. 1928 – Jun. 1929): 241-243.

Middlesex landowner who was a leading champion of the colony's privileges in the 17th century, carved out an exception when he was compelled to take the Oath of Allegiance to the King. He would be understood, he said, "not to infringe the liberty and privileges granted in his Majesty's royal charter."[93] Yet it was not only colonial elites who prized the charter. As the royal commissioners to New England found in 1665, the colonists in general were so jealous of "the privileges of [their] charter, so dearly purchased, [and] so long enjoyed," that they would not allow the commissioners to "call them to an account."[94] One colonist represented attachment to the document in terms reminiscent of Magna Carta. His fellow colonists, he wrote, believed "their lives, estates, house and lands" all depended upon the strict preservation of the charter. To this he added a concern for the colony's religious mission. "If the wall of civil government be pulled down," he argued, "the wild boar will soon destroy the Lord's vineyard."[95] The difficulties of overseas settlement and the colony's religious mission had inculcated an almost fanatical devotion to the 1629 charter.

The desire to preserve their charter privileges led the colonists to stand out against several attempts on their liberties: a *Quo Warranto* in 1635; the Nicolls commission in the 1660s; and the early efforts of customs inspector Edward Randolph in the 1670s. This last proved a close call, with Massachusetts begrudgingly sending agents to London to answer charges against the colony. Yet it failed, as had the earlier attempts, because of wavering commitment from Whitehall. Although the Lords of Trade were incensed by the agents' inability to concede anything concerning the charter, the outbreak of the Popish Plot in late 1678 redirected the attention of the Privy Council and led them to dismiss the agents. The Lords rather optimistically

[93] "Danforth Papers" *CMHS* 2, VIII: 91.
[94] "The Transactions of his Majesty's Commissioners… with the General Court of Massachusetts" (5/3-26/1665) TNA, CO 1/19, ff 119v, 142r; Weimer, *Constitutional Culture*, passim.
[95] "Samuel Nadhorth to William Morrice" (10/26/1666) TNA, CO 1/20, f 287r.

predicted the ensuing crisis would be short lived, and directed that new agents, suitably empowered, should arrive within six months.[96] Yet the colonists, conceiving that sending agents would be "to no other end… but to cut us short of our liberties and privileges," held out for three years."[97]

The decision to send agents followed the news of the *Quo Warranto* against London in spring 1682. "The news of the dissenters being imprisoned in England and his Majesty's bringing a *Quo Warranto* against the charter of London," Randolph reported, had put the colony's leadership "in a great perplexity."[98] Leading freemen realized that if London was not safe, "designs against [their] liberties" were surely possible.[99] Consequently, the colony's leaders decided "it was now time to make their application to his Majesty."[100] The anxious response of the Bay Colony's leaders to the *Quo Warranto* against Massachusetts suggests that colonists recognized that the fate of their liberties was intimately bound up with that of other corporations. The General Court selected John Richards and Joseph Dudley to travel to London, but, as with the previous agents, they were not empowered to "consent to anything that may violate or infringe the liberties and privileges granted to us by his Majesty's royal charter."[101] The loss of the colony's patent was to be avoided at all costs.

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[96] "Massachusetts Quo Warranto Proceedings" (1635) BL, Egerton MS 2395, ff 27r-29r; Weimer, *Constitutional Culture*, *passim*; *"*The Business of New England" (4/8/1678) *Randolph*, II: 289-298; "Agents Return Home" (5/20/1679) *Randolph*, III: 44.
[97] Daniel Gookin, "Petition to the Massachusetts General Court Committee on Agents" (2/14/1680[/1]) MHS, Prince Papers, #34. I am grateful to Adrian Weimer for sharing this document with me. Others advised sending agents without power to forfeit the charter. "John Higginson to Increase Mather" (1680-1681?) *CMHS* 4, VIII: 280-1; "Answer of the Elders of the Congregational Churches of Massachusetts to the Question Propounded to them by the Honored General Court" (1/4/1680[/1]) Huntington, mssBL 226; "Elders' Advice Respecting Instructions to Our Agents in England" (Feb 1680[/1]) Massachusetts Archives, CCXLI: 241 (hence MassArchs).
[98] "Randolph to Clarendon" (6/14/1682), "Randolph to Jenkins" (5/29/1682) *Randolph*, III: 142, 155.
[99] "Increase Mather Diary, 1680-1684," (6/22/1682) American Antiquarian Society, Mather Family, Papers 1613-1819, Octavo v5: 77 ("Mather Diary").
[100] "Randolph to Jenkins" (5/29/1682) *Randolph*, III: 142.
[101] "Instructions for Joseph Dudley and John Richards" (2/15/1681[/2]) in Nathaniel B. Shurtleff, Eds., *Records of the Governor and Company of Massachusetts Bay in New England* (Boston, MA: William White, 1854), V: 347-349. Hence *RMB*.

Much hinged on the preservation of the charter. The colonists were constantly provided with news from England and Europe which painted a dire picture of triumphant popery and the decline of reformed Protestantism. "Things look very dark," wrote the Whig Physician Ichabod Chauncy from Bristol, "not only with us, but all the professing Protestant part of the world."[102] Samuel Petto of Sudbury warned of "the open prophanness of multitudes here, and the height of their opposition against the power of godliness."[103] The persecutions of French Protestants provided especially vivid evidence of what the godly might expect under a popish and arbitrary government. Increase Mather's brother Nathaniel, a reverend in Dublin, reported that "the French King increaseth his persecutions of the Protestants," while Samuel Craddock of Wickhambrook, Suffolk, wept for "the poor distressed Protestants in France."[104] New Englanders internalized these messages. The election sermon for 1683, preached at the opening of the General Court and intended to set the tone for the Court's business, was *A Plea for the Life of Dying Religion*.[105] "The Protestant interest," Increase Mather recorded in his diary, was "in low estate."[106]

In England, the colonists learned, the persecution of Protestants and the triumph of popery was being accomplished by attacking corporate charters. The "charters and governments of municipal cities and towns," wrote the Whig attorney Thomas Hunt, "are the greatest defences against popery." North's "new form of corporations," Hunt lamented, would enable a popish successor "to put the government of all corporated towns in England into the hands of papists,"

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[102] "Ichabod Chauncy to Increase Mather" (8/12/1683) *CMHS* 4, VIII: 619-20. Chauncy was convicted of nonconformity and banished from England in 1684, whereupon he fled to Amsterdam. Ichabod Chauncy, *Innocence Vindicated by a Brief and Impartial Narrative of the Proceedings of the Court of Sessions in Bristol against Ichabod Chauncy* (London: George Larkin, 1684); "Ichabod Chauncy to Increase Mather" (3/2/1684[/5]) MHS, Prince Papers, #112.
[103] "Samuel Petto to Increase Mather" (10/8/1684) *CMHS* 4, VIII: 349-50.
[104] "Nathaniel Mather to Increase Mather" (4/10/1683), "Samuel Craddock to Increase Mather" (9/23/1684) *CMHS* 4, VIII: 43, 642.
[105] Samuel Torrey, *A Plea for the Life of Dying Religion from the Word of the Lord* (Boston: Samuel Green for Samuel Sewall, 1683).
[106] "Mather Diary," 39, 58, 77; Mather, "To the Reader" in Torrey, *A Plea for the Life of Dying Religion*.

and thereby "extirpate the reformed religion."[107] A torrent of letters from England seemed to confirm Hunt's prediction. Ichabod Chauncy wrote that "*Quo Warrantos* have been brought against many charters in England, and particularly against London." This was because London had hindered the "popish plot" and the papists' efforts to "cast the plot upon the Presbyterians" and other Protestants, through their use of *ignoramus* juries.[108] A letter from England, seemingly copied down for circulation by John Cotton, Jr., noted how "charters of our corporations are given up in many places" the better to deny Protestants "the benefit of all law" and turn "those statutes, which were made against the papists… upon us."[109] Samuel Baker of Watesfield, Norfolk reported how since "Norwich and some other corporations" had surrendered their charters, church "meetings are almost wholly prevented."[110] Nathaniel Mather warned that "in England and in Scotland, there is so great a restraint on the nonconformists, that I hardly hear of" a single meeting, a prospect he linked to the news that "the judges have declared the City [of London's] charter forfeited." "Many think the same course… will be used to other corporations in England," he added.[111] Edward Rosseter noted that "the Great City of London and many more" had had "their old charters broken," to the disadvantage of "dissenters all the land over."[112] With chartered autonomy withering under the royal barrage, the godly interest was reaching its nadir.

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[107] Thomas Hunt, *A Defence of the Charter, and Municipal Rights of the City of London* (London: Richard Baldwin, 1683), 4-5, 13. Increase Mather read this pamphlet. "Mather Diary" (1/28/1683[/4]), 153.
[108] "Ichabod Chauncy to Increase Mather" (9/20/1682) BPL, Ms. Am. 1502, IV: #33.
[109] "Unknown to Unknown" (1684?) MHS, Prince Papers, #79.
[110] "Samuel Baker [Watesfield, Norfolk] to Increase Mather" (1/30/1682[/3]) *CMHS* 4, VIII: 510. Norwich had surrendered its charter in 1682. "The Most Humble Address and Petition of the Mayor, Sheriffs, Citizens, and Commonalty of your Ancient and Loyal City of Norwich" (9/29/1682) Norfolk Record Office, Norwich Branch, NCR Case 16d/8: 100r.
[111] "Nathaniel Mather to Increase Mather" (4/10/1683), ibid (5/31/1683), ibid (6/25/1683), ibid (8/13/1683) *CMHS* 4, VIII: 42, 45, 46 (quote), 47-8.
[112] "Edward Rossetter to John Cotton, Jr." (3/20/1683[/4]) in Sheila McIntyre and Len Travers, Eds.,*The Correspondence of John Cotton, Jr* (Boston: Colonial Society of MA, 2009), 302.

Little wonder that colonists understood the agency to have existential ramifications. The agents were "employed in a concern, wherein the thoughts of this whole land are called to be upon you!"[113] Yet on his arrival in England, Bay Colony Agent John Richards offered grim portents. "Dissenters," he wrote, were "miserably harassed" in Bristol and London. Remodeling corporate charters was the key to this effort. "Here hath been much labor with corporations in reference to their charters," advised Richards. He warned that the Lords of Trade seemed determined to use the same instrument against Massachusetts; either the colony would grant the agents a commission sufficient to "accept of such regulations of our government as shall be propounded… or else a *Quo Warranto* will within 4 months proceed against our charter.[114] Nathaniel Mather summed up the situation. "If your charter be gone," he warned his brother Increase, "I expect… that your ministers must conform or be packing."[115] Yet the crown's progress against municipal charters offered little hope. "What shall we poor shrubs expect," wrote Cotton Mather on hearing of London's tribulations, "when the stately cedars crack!"[116]

He was right to worry. On June 12, 1683, Justice Thomas Jones of the Court of King's Bench delivered the judgement in *Rex v. London*, the London *Quo Warranto* case. The ruling condemned the City for violating its "trust for the good government of the King's subjects," levying oppressive taxes and circulating a seditious petition against the King's "person and government." For these crimes, "the franchise and liberty of London" were "taken into the

[113] "Cotton Mather to John Richards, Agent in London" (11/13/1682) *CMHS* 4, VIII: 385-6; "Samuel Nowell to John Richards" (11/9/1682), ibid (3/28/1683) *CMHS* 5, I: 431-2, 434-5; "John Rogers to Joseph Dudley" (8/16/1683) MHS, Washburn Autograph Collection.
[114] "John Richards [London] to Increase Mather" (8/21/1682), ibid (9/25/1682), ibid (12/12/1682), ibid (4/20/1683) *CMHS* 4, VIII: 494-502 (quotes 497, 499); "Joseph Dudley and John Richards to the General Court" (9/28/1682) MHS, Prince Papers, #146; "New England: The Agents to Send for a Fuller Commission to Agree Upon the Regulation of the Massachusetts Colony" (9/20/1682) TNA, PC 2/69, 545-6.
[115] "Nathaniel Mather to Increase Mather" (5/19/1684) *CMHS* 4, VIII: 56-57.
[116] "Cotton Mather to John Cotton Jr." (2/28/1682[/3]) *Correspondence of John Cotton, Jr.*, 287.

King's hands."[117] AG Sawyer requested the enrollment be delayed, in hopes that the City would voluntarily surrender the "governing part" of their charter rather than lose all their corporate privileges.[118] The same day, the Lords of Trade met to discuss the fate of Massachusetts. The Agents were asked if they had yet received powers sufficient to negotiate an abridgement of the charter, and once again, they acknowledged that they had not. It was likely Francis North, the second highest ranking member in attendance and the sole legal expert in the room, who suggested applying the new judgement to the colonial corporation.[119] If the agents lacked power "to consent to such regulation of their government as shall be thought fit," the Lords would recommend a *Quo Warranto* against the colony's charter.[120] The next morning at a meeting of the Privy Council (at which North was also present) they delivered their recommendation to the King, who ordered Sawyer to begin proceedings against the colony.[121]

The strategy for seizing the Massachusetts charter was self-consciously modeled on the one North had outlined for use in England. When the Lords ordered Randolph to deliver the *Quo Warranto* to Boston on July 20, they gave him several additional documents which spell out this intention clearly. One was Charles's declaration to the colony intended to assuage anxieties about the attack on the charter. Charles promised, first, that surrendering the charter would not upset colonial landholdings – the "private interests and properties of all" would "be preserved." Second, he vowed that if the colonists would "make a full and speedy submission and entire resignation to our pleasure," only "necessary" alterations would be made to the charter.[122] Yet the

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[117] *ST*, VIII: 1272n. On *Rex v. London*, see Jennifer Levin, *The Charter Controversy in the City of London, 1660-1688, and its Consequences* (London: Athlone Press, 1969), and Halliday, *Dismembering*, 204-212.
[118] *ST*, VIII: 1272-3n; Levin, *Charter Controversy*, 50.
[119] Privy Council Register (12/22/1682) TNA, PC 2/69, 602.
[120] "At the Committee of Trade and Plantations" (6/12/1683), TNA, CO 391/4, 167, 170-1; *RMB*, V: 386-392.
[121] "Quo Warranto to be Brought Against the Massachusetts Bay in New England" (6/13/1683), TNA, PC 2/70, 1.
[122] "Order of Council for Randolph to Carry Quo Warranto" (7/20/1683) *Randolph*, III: 245-7; *RMB*, V: 423. Charles's declaration echoed some of Randolph's suggestions over the preceding month. "Memorial Addressed to the Archbishop of Canterbury" (7/11/1683), "Randolph Presents Petition, &c, and Alterations Proposed" (7/17/1683)

connection between English and colonial charter reform was made even more explicit with the second set of documents Randolph carried to Boston. The Lords entrusted him with "one hundred copies of all the proceedings at the Council Board concerning the charter of London."[123] A week after the judgement in *Rex v. London*, the City's Tory Lord Mayor had attended the court at Windsor and offered to submit to the King's pleasure. North answered, saying that if the Common Council of the City would willingly accept royal approbation of all officeholders the King would leave their other privileges untouched and not prejudice them "either in their properties or customs." If the Common Council would "look upon it with another eye, and neglect a speedy compliance," he warned, they would bring on "a heavy conveyance of this judgement," which would be "fatal." The choice belonged to the Londoners, "in whose power it now is, to bring this affair to a happy conclusion."[124] The combination of these proceedings and the king's declaration to Massachusetts was intended to "invite the [colonists] to follow the example of the City."[125] Having felled the mightiest cedar, Charles set about intimidating the shrub.

Debating Surrender

When Randolph arrived in Boston on October 26th, he found the colonists divided. Richards and Dudley had arrived with news of the *Quo Warranto* and the King's offer of

Randolph, III: 241-244. He was likewise given 100 copies of Charles's *Declaration* concerning the Rye House Plot. "Randolph to have 100 copies of Declaration" (8/17/1683) *Randolph*, III: 255.
[123] "Order of Council for Randolph to Carry Quo Warranto" (7/20/1683) *Randolph*, III: 246; "City of London's Petition," "Lord Keeper's Answer" (6/18/1683) TNA, PC 2/70, 8-10.
[124] Ibid; *A True and Perfect Account of the Proceedings at Windsor Concerning the Citizen's Petition Presented to his Most Gracious Majesty by the Right Honorable the Lord Mayor… Likewise the King's Most Gracious Answer* (London: E. Mallet, 1683). North seems to have drafted these suggestions during the proceedings. "The Project for the Restoration of the Charter of London" BL, Add MS 32,519, f 126r-v.
[125] "Randolph to Jenkins" (8/3/1683) *Randolph*, III: 251.

leniency several days prior, and the colonists were unsure how to respond.[126] On November 7, Simon Bradstreet, the colony's governor, presented the *Quo Warranto* to the General Court, alongside Charles's declaration pledging to preserve most of the colonists' privileges if they surrendered and the proceedings concerning London.[127] Advocates for surrender, including Bradstreet and the majority of the magistrates (the upper chamber of the General Court) argued that defiance would only delay the inevitable and bring on the Court's wrath. London, after all, had fallen to the King.[128] Other municipalities had begun to surrender in droves, recognizing that they had little to gain by resisting.[129] What hope did Massachusetts have? A group of ministers meeting at the house of Reverend Samuel Willard in Boston recommended resigning the patent "up to his Majesty" on pragmatic grounds "so the essentials… might be continued."[130] Magistrate Peter Bulkeley wrote that he had "no expectation of any benefit to us by a suit with the King," adding that opponents of surrender seemed to "prefer the dissolution of our body politic, rather than to suffer amputation in any of its limbs."[131] William Stoughton, influenced by the "example of corporations in England" suspected "a more favorable administration might be expected" if the colony surrendered.[132] To preserve their charter privileges as much as possible, on November 12 the magistrates sent a message to the deputies (the lower chamber of the General Court) asking whether the Massachusetts Bay Company should accept the King's offer and "make a full submission and entire resignation of our charter… to his Majesty's pleasure,"

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[126] "Peter Thacher Diary" (10/25/1683) MHS, Pre-Revolutionary Diaries. "Randolph to Jenkins" (2/14/1683[/4]) *Randolph*, III: 273-4.
[127] *RMB*, V: 420-423; "Writ of Quo Warranto" (7/9/83) MassArchs, CVI: 300; Randolph, "Short Narrative Touching the Delivery of the *Quo Warranto*" (2/29/1683[/4]) *Randolph*, III: 275-9.
[128] "Ruling in *Rex v. London*" (6/12/1683) MassArchs, CVI: 293.
[129] Of the 59 reformed municipal charters which passed the Great Seal between 1/1/1682 and 2/6/1685 (Charles's death), 50 did so after the London judgement. See Halliday, *Dismembering*, Appendix A.
[130] "Thacher Diary" (11/9/1683).
[131] "Peter Bulkeley to Blathwayt" (12/7/1683) Colonial Williamsburg, Blathwayt Papers (CWBP), IV: 1.
[132] John Langdon Sibley, *Biographical Sketches of Graduates of Harvard University* (Cambridge: Charles Wilson Seever, 1873), I: 197.

an act which would require the consent of both chambers. The deputies resolved in the negative, instead desiring the magistrates' consent to appoint an attorney to answer the *Quo Warranto* in England.[133] For the next month, the magistrates sought with "patience and pursuit" to obtain the deputies' consent to resign the charter, but to no avail.[134] To avoid a judgement being entered on default the magistrates consented to appoint an attorney, apologizing for doing so and pledging to "earnestly labor to give the people a better understanding" in a letter to Secretary Jenkins.[135]

The group opposed to surrender, led by Deputy Governor Thomas Danforth and magistrate John Richards and encompassing most of the deputies, stood out in large part based on their knowledge of the dire condition of religious and civil liberties in municipalities that had surrendered in England. Randolph reported that the deputies were "encouraged to persist in their" defiance by "a letter pretended to be sent from London… advising the unhappy and lamentable condition of the town of Norwich in England since the surrender of their charter."[136] To galvanize opposition to surrender, leading members of "the faction" reached out to Increase Mather, asking him to "deliver [his] apprehensions on the question whether the country could without sin against God… make such a resignation." From them and his own correspondents Mather received "several papers… that came out of England or Holland." These papers probably included the higher-than-usual number of political pamphlets Mather read that November, as well as letters and correspondence concerning the dire state of the Protestant interest where charters had been forfeited. Mather "put those arguments into form, and added some of [his] own," producing a pamphlet of "Arguments de Resignation" on November 30.[137]

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[133] MassArchs, CVI: 304-304a.
[134] "Joseph Dudley to Blathwayt" (12/1/1683) CWBP, IV: 4; "Randolph to Jenkins" (2/14/1683[/4]) *Randolph*, III: 273-4.
[135] "Magistrates of New England to Jenkins" (12/7/1683) TNA, CO 1/53, f234r.
[136] Randolph, "Short Narrative," 276. Possibly the letter cited above, note 110.
[137] "The Autobiography of Increase Mather," Michael G. Hall, ed. *Proceedings of the American Antiquarian Society* 71, no. 2 (October 1961): 307-8 ("Autobiography"); "Mather Diary," 141-144.

Mather's pamphlet opened with the question posed by the magistrates: should the government of Massachusetts Bay make "a full submission and entire resignation to the pleasure of the court, as to alterations… of their charter?"[138] Mather argued no in seven arguments which blended scripture, history, and politics. Surrender, he wrote, would be "destructive to the interest of religion, and of Christ's kingdom" and would be a "sin and great offence to the Majesty of heaven." It would make the colony vulnerable to "popish councils" and threaten to bring in "conformity, in matters of worship, with the established church government in England."[139] Not only would surrender constitute a sin against God, but it would betray the legacy of the first settlers. "The God of their fathers" had bestowed on the colonists these rights and privileges, and their "worthy predecessors" had stood firm in the face of the first *Quo Warranto* in the 1630s and the royal commission in 1664-5. "The civil liberties of the people in New England are part of the inheritance of their fathers," Mather wrote. "Shall they give that inheritance away?"[140]

To Mather, the arguments of Bradstreet and the other moderates that submission would "preserv[e] the substance of the charter," misunderstood what was happening in England. The Court's aim, as evidenced by the council proceedings Randolph had distributed, was to "reduce matters in New England to the same state that London… is reduced unto." But the alterations Francis North had proposed for London would be "destructive to the vitals of the charter," because they would empower the royally approved governor to oust and appoint officials at whim. Placing the magistracy under royal oversight jeopardized their worship – "the people in New England, being Non-Conformists, have no reason to believe that *their religion* and *the*

[138] [Increase Mather] "Arguments Against Relinquishing the Charter" *CMHS* 3, I: 74-81. Hall argues against Mather's authorship, noting the "language and argumentation are unlike any authentic Mather papers of the period." Hall, *Last American Puritan*, 190-192, 384n18. These stylistic differences may be accounted for by the paper's synthetic quality.
[139] [Mather], "Arguments," 75, 77-81.
[140] Ibid, 76-79, 81. This last is a reference to Naboth's vineyard, 1 Kings 21.

court's pleasure will consist together." The Lords of Trade had invited the colonists to follow the obsequious example of the Tory Lord Mayor of London, but to what end? "All those corporations in England who have submitted to the court's pleasure, have gained nothing thereby, but are in as bad a case as those that have stood a suit in law." Those who went to court, Mather thought, might at least appeal the ruling and have a possibility of recovery, but a resignation sacrificed even that. The colonists' voluntary resignation would only "bring slavery upon them sooner than otherwise would be" and so "gratify [their] adversaries" and "grieve their friends, both in other colonies, and in England also." It was the privilege of Englishmen, living under "a limited monarchy" that they may "defend [their] legal right, if the King… shall sue." To argue that they must surrender because of the court's displeasure was to consent to "that misery and slavery which the captive Jews were in." Politics, religion, and scripture all pointed in the same direction – Massachusetts must abide the trial.[141]

The dissolution of the General Court in early December did not mark the end of the debate about surrender, and Mather's "Arguments de Resignation" seem to have continued to play a role.[142] The magistrates for whom Mather had written them "disperse[d] copies thereof… into many hands," and according to Randolph a "libelous paper" circulated in Boston.[143] As members of the General Court returned home, news and probably copies of the "Arguments" spread. John Cotton III of Exeter, New Hampshire heard about the pamphlet and requested a

[141] Ibid, 75-80.
[142] For the challenges of tracking the circulation of "scribal publications" see David D. Hall, "Scribal Publication in Seventeenth-Century New England: An Introduction and a Checklist" *Proceedings of the American Antiquarian Society* 115 (April 2005): 41-43.
[143] "Autobiography," 307; Randolph, "Short Narrative" 277-8. Randolph seems to only have known about the piece from rumors, suspecting one "Cheesers" (probably Thomas Cheevers) of having written it, and misrepresenting its contents somewhat. No other record or mention of the "Cheesers" pamphlet is known to exist, and Randolph's approximate dispersal date corresponds with when Mather finished his. Hall, "Scribal Publication," 75. "Moderates" found it difficult to procure copies – a year later, Dudley told Randolph he could "get no copy" of a "treasonable libel," possibly the "Arguments." "Dudley to Randolph" (12/1/1684) *Randolph*, III: 335.

copy from his brother at Harvard in early February.[144] The "Arguments" seem to have influenced the opinion of the freemen. Mather later claimed the pamphlet kept "the country from complying" with surrender, while Willard charged that it "had done more mischief to NE than King and Courts," by encouraging defiance.[145] Several Massachusetts towns, perhaps influenced by the "Arguments," registered their desire not to surrender.[146] In a speech to the Boston town meeting on January 21, Mather recited many of the arguments he had written in the pamphlet but closed on a more hopeful note, showing that if municipal precedents could sow fear, they could also inspire courage. "We hear from London," he said, "that… they would not make a full submission and entire regulation to pleasure, lest… their posterity should curse them." Now it was Mather's turn to hold up London as an example to follow. Looking out at the assembled freemen, he asked "shall we do it then?" With tears in their eyes, the freemen of Boston unanimously rejected calls to surrender the charter.[147]

Both sides in the debate that raged in Massachusetts from November 1683 until February 1684 made their case with reference to the ongoing controversies over corporate charters in England. For surrender's proponents, London's failure to resist the *Quo Warranto* and the king's offer of leniency to City and colony alike made resignation the prudent choice to preserve the substance of their charter. For surrender's opponents, especially their most eloquent champion Increase Mather, the dire state of the Protestant interest in England which the assault on

[144] "John Cotton to Rowland Cotton" (2/8/1683[/4]) MHS, Prince Papers, #80.
[145] "Mather Diary" 154, 157; "Autobiography" 307-8.
[146] Don Gleason Hill, Ed., *The Early Records of the Town of Dedham, Mass. 1672-1706* (Dedham, MA: Dedham Transcript Press, 1899), V: 151; *Town Records of Topsfield, Massachusetts, 1659-1778* (Topsfield, MA: Topsfield Historical Society, 1917), I: 48-49; "Autobiography" 308. Thacher records a conversation about the King's declaration in Milton but does not note the outcome: "Thacher Diary" (2/1/1683[/4]).
[147] "Autobiography," 308; "Mather Diary" (1/21/1683[/4]), 149-151; "Abstract of a letter to Randolph" (3/14/1683[/4]) *Randolph*, III: 283-4; "Common Council Book" (10/2/1683) London Archives, COL/CC/01/01/48, f98r. News of London's defiance had arrived by late December: "John Cotton, Jr. to Thomas Hinckley" (12/27/1683) BPL, Ms. Am. 1508, I: 54.

municipal charters had made possible was evidence of the need to stand in opposition to the crown. Mather's arguments spread throughout the region in his pamphlet of "Arguments," helping to coalesce popular opinion against surrender. Widespread opposition to surrender was confirmed in the elections to the General Court in May 1684, when many of its proponents lost their seats in the General Court. "The faction," Randolph reported, have "gotten the sole Government into their hands."[148] Opponents of surrender had triumphed – Massachusetts Bay, like London before it, would answer the king in court.

The General Court selected solicitor Robert Humphreys, who had aided Richards and Dudley during their agency in London, to answer the *Quo Warranto* in the Court of King's Bench.[149] Humphreys's job was made easier by the *Quo Warranto*'s failure on technical grounds. Repeated delays had prevented Randolph's arrival until after its expiration on September 29. The sheriff could not return a summons on an expired warrant.[150] Yet the graver issue was the fault of one of the clerks who composed the *Quo Warranto*. "Mr. Ward, one of the clerks of the Crown Office" had made "a fundamental mistake," complained Randolph, directing the process "against particular persons in the Government, whereas it ought to be brought against the Governor and Company."[151] Such a writ would have stripped individual corporators of their franchise while leaving the corporation itself intact; it was therefore entirely inadequate for a ministry

[148] "Representation of Mr. Randolph of the State of the Massachusetts Colony" (7/16/1684); "Randolph to Samuel Shrimpton" (7/18/1684) *Randolph*, III: 309-310 (quote); 310-311; "Joseph Dudley to Jenkins" (5/7/1684) TNA, CO 1/54, f 251r; "William Stoughton to Richard Streton" (5/5-8/1684) BL, Stowe MS 746, ff 89r-v; "Joseph Dudley to Blathwayt" (5/4/1684) CWBP, IV: folder 4; "William Dyre to Blathwayt" (9/12/1684) CWBP, IV: folder 3; "Edward Randolph to Sir Francis North" (12/3/1684) Huntington, mssBL 232.
[149] *RMB*, V: 432; "Randolph's to the Commissioners of the Customs" (6/14/1682) *Randolph*, III: 172-174.
[150] *RMB*, V: 425; "Opinion of Mr. Attorney General touching the Quo Warranto Against New England" (5/13/1684) *Randolph*, III: 297; "Writ of Quo Warranto" (7/9/1683) MassArchs, CVI: 300.
[151] "Randolph to ?" (5/2/1684), "Randolph to Southwell" (5/3/1684) *Randolph*, III: 298, 300; "Memo of Attorney General Robert Sawyer" (5/3/1684) TNA, CO 1/54, f 228r; *RMB*, V: 425.

determined to remodel the Bay Colony itself. Randolph, freshly returned from a treacherous transatlantic crossing, expected that he might once again have to travel to Boston.[152]

On May 13, AG Sawyer suggested an alternative method. "Upon advice with the King's Council," on which Lord Keeper North, now baron Guilford, was the ranking lawyer, he determined "the best way to reach them will be by a *scire facias*" (an analogous procedure to *Quo Warranto* brought in Chancery) which could be made "against the company to repeal the patent."[153] All recognized that Massachusetts Bay's best hopes lay in "spin[ning] out the case to the uttermost," and in Whitehall "everyone [was] concerned that there hath been so great delays" already. To force the issue, Sawyer recommended pairing the *scire facias* with a provision that "if they do not appear, judgement will be entered against them."[154] The writ was accordingly drawn up, and Humphreys was called to appear in the Court of Chancery, where the acting Chancellor was none other than Lord Keeper Guilford.[155]

Humphreys assembled many of the most famous Whig barristers in England to represent the colony.[156] Two, Henry Pollexfen and William Williams, had distinguished themselves as opponents of corporate surrender in the previous year. Pollexfen, as part of the defense in *Rex v. London*, argued that the oaths of freemen to "preserve the rights, liberties, and privileges" of their corporations made surrender unlawful.[157] Williams, former speaker of the House of

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[152] "Randolph to Southwell" (5/17/1684) *Randolph*, III: 302; "Robert Humphreys to Joseph Dudley" (6/17/1684) MassArchs, CVI: 332; Hall, *Edward Randolph*, 82-83.
[153] "Opinion of Mr. Attorney General" (5/13/1684) *Randolph*, III: 297-298; John Baker, *An Introduction to English Legal History*, 5th ed. (Oxford: Oxford University Press, 2019), 155-156. North had been appointed Lord Keeper in December 1682 and created Baron Guilford in 1683. Paul D. Halliday, "North, Francis, first Baron Guilford (1637-1685)" in *Oxford Dictionary of National Biography*, January 3, 2008, https://doi.org/10.1093/ref:odnb/20301
[154] *RMB*, V: 439; "Randolph to Southwell" (5/17/1684), "Opinion of Mr. Attorney General" (5/13/1684) *Randolph*, III: 303, 298.
[155] The Lord Keeper exercised the powers of the Lord Chancellor when that post was vacant.
[156] The General Court's letters to Humphreys are in *RMB*, V: 423-4, 424-5, 430-1, 439, 440-1, 451, 458. "Robert Humphreys to Joseph Dudley" (6/17/1684) MassArchs, CVI: 332-333.
[157] *ST*, VIII: 1255.

Commons and Recorder for Chester, encouraged that city to go to trial to defend its charter, likening surrender to an act of "self-homicide."[158] These were men who shared the Bay Colony's commitment to charter privileges. Citing the great distance, Williams requested additional time for the colony to appear.[159] Guilford granted this, allowing until the start of the following term for Massachusetts to plead and initiate trial proceedings. But there would be no further delay. "This court," he wrote, "doth think fit and so order that judgment be entered up for his Majesty upon the said *scire facias* as of this term." If Massachusetts took the issue to trial, the judgement would be "set aside, but in default thereof" it would stand.[160]

Four months was an exceptionally tight window to collect the colony's plea in a period when transatlantic voyages could take six to eight weeks each way. The General Court learned of the *scire facias* in mid-September via a private letter from Humphreys to Dudley in which he begged the colony to send explanations or excuses for the offences charged in the writ. Yet Humphreys was pessimistic about the Company's chances. If the colony should enter a plea, "we must be sent into the King's" Bench, where "no corporation is found sufficiently fortified." If they demurred, "my Lord Keeper will give judgement."[161] There was no way out. Hostile reporters suggested that the General Court would simply refuse to plead. "Ignorant rulers represented [the *scire facias*] as a poor toothless creature… like those spirits that can hurt none but those that converse with them."[162] In fact the Court intended to go down fighting, gathering

[158] "Abstract of the Speech of William Williams, Record of Chester, at the Setting of the Mayor's Watch" (12/24/1683) TNA, SP 29/435, ff 167v-168r; "Petition to Judge Jeffreys" (1684?) Cheshire Archives and Local Studies, ZGMc/9; Gillian Hampson, "WILLIAMS, William (c.1634-1700), of Nantanog, Llantrisant, Anglesey and Glascoed, Llansilin, Denb." in *History of Parliament Online*, accessed July 5, 2026, https://www.historyofparliamentonline.org/volume/1660-1690/member/williams-william-1634-1700.
[159] "Order in Chancery" (6/12/1684) TNA, CO 1/54, f 350r.
[160] "Order in Chancery" (6/14/1684) TNA, CO 1/54, f 355r. "Lord Keeper's Order in Chancery for Entering Judgement Against the Massachusetts Charter" (6/21/1684), TNA, CO 1/54, f 369r-v.
[161] "Robert Humphreys to Joseph Dudley" (6/17/1684) MassArchs, CVI: 332-333.
[162] "Extract of a Letter from Boston" (9/15/1684) TNA, CO 1/55, f 108r.

immediately to debate "what [was] further to be done." They set about drawing up the defense Humphreys had requested, but it was too late – they were out of time.[163]

At the start of Michaelmas term on October 23, lawyers for both sides met in Westminster Hall. Those representing Massachusetts begged for additional time. "We sent by the first ship after the order" in June, one said, "and there is no ship returned since… We have done all we can." Humphreys pleaded that he did not yet have a power of attorney to answer the *scire facias*, a claim which irritated Guilford. "Every corporation ought to have an attorney in every court to appear in his Majesty's suit," he scolded, noting that "London had such." The colony's distance was not a sufficient excuse for delaying judgement. When Francis Pemberton suggested that the inhabitants "had not sufficient time to appear," AG Sawyer, exasperated, called for an end to delays. The *Quo Warranto* had been issued a year since, and still the corporation had managed to escape justice. "Are you counsel for a company of rebels, that the King should send a fleet to subdue?" he asked Humphreys. "Pray," he implored Guilford. "Let [the ruling] be entered. It very much concerns the King." The Lord Keeper obliged.[164] In the end, then, it was Massachusetts Bay's inability to live up to the standards of corporations in England which marked the final nail in its coffin. Guilford entered judgement for the crown, and the Massachusetts Bay Company, which had stood defiant for 55 years and survived two *Quo Warrantos* and a dozen lesser attempts on its liberties, finally succumbed to royal power.

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[163] "General Court to Robert Humphreys" (9/12/1684) *RMB*, V: 451; MassArchs, CVI: 334-336.

[164] "Rule in Chancery Against the Massachusetts Charter" (10/23/1684), TNA, CO 1/55, f 237r; "Robert Humphreys to the General Court" (5/2/1685) MassArchs, CVI: 343v; "Exemplification of the Judgement for Vacating the Charter of the Massachusetts Bay in New England" (10/13/1685) *CMHS* 4, II: 246-278; Mark Goldie, John Spurr et al., Eds., *The Entring Book of Roger Morrice* (Woodbridge: Boydell Press, 2007), II: 488. Morrice repeats this quote, attributing it in one instance to Sawyer and in the other to Guilford. See Sawyer's postscript on "Lord Keeper's Order in Chancery for Entering Judgement Against the Massachusetts Charter" (6/21/1684), TNA, CO 1/54, f 369v.

If the end of its corporate autonomy was momentous for Massachusetts, for Guilford it had become routine. In the remaining three and a half months of Charles's reign, the Lord Keeper would apply the Great Seal to twenty reformed municipal charters.[165]

Conclusion

The loss of the Massachusetts charter came towards the conclusion of Charles II's campaign to assert royal authority over wayward corporations which, in the view of Lord Keeper Guilford, had usurped the royal prerogative. That it did so was no coincidence. The final, successful push to bring the Bay Colony to heel grew out of the contemporaneous project to bring corporate jurisdictions into their due and lawful submission to the crown. Viewed from Whitehall, there was nothing especially unusual about Massachusetts Bay, the corporate foundations of which had long been understood. Constitutionally speaking, Massachusetts was no more peripheral than London.

This shared institutional foundation meant that the political culture which developed around corporate charters in early modern England was easily transplanted to the colony. Figures like Increase Mather or Thomas Danforth had attachments to their charter which would have been familiar to the citizens and freemen of Norwich, Bristol, or London – it was the instrument which secured their rights to self-government, but it was also a recognition of the civility and capacities which made them worthy of self-government in the first place. Unsurprisingly then, colonists of all persuasions, desperate to maximally preserve their privileges as freemen of the

[165] Halliday, *Dismembering*, 351. A new charter would issue for Wallingford on October 27, while Chester's charter would be rushed past the great seal two days before Charles's death. Charter of Charles II (2/4/1684[/5]) Cheshire Archives and Local Studies, CH 39; "Thomas Grosvenor to ?" (2/9/1684[/5]) Eaton Hall Manuscripts, PP 4/11. I am grateful to His Grace the Duke of Westminster and Louise Benson, Archivist at Eaton Hall, for providing a copy of this manuscript.

Massachusetts Bay Company, looked to the unfolding campaign against corporate municipalities to contextualize their plight and debate their response. No less than Guilford, they recognized that they were involved in far more than a provincial struggle.

Restoring the quarrel over the Massachusetts charter to its larger legal and political context demonstrates the continued salience of the corporate connection in the decades after settlement. The focus in much of the literature on overseas corporations on the transformative impact of colonization risks obscuring these enduring connections, fragmenting the empire by presupposing constitutional distinctions between its constituent parts which were only beginning to be formalized in the late 17th century. Defining the place of overseas colonies within the imperial constitution took time, occurring in a piecemeal fashion throughout the early modern period. The Dominion of New England, the pinnacle of Restoration empire, was not foreordained. Indeed, had Massachusetts acceded to royal demands for regulation in the 1670s and early 80s, the assertation of central authority might have looked more like the charter of 1691, which imposed a royal governor but maintained a local assembly – a model resembling that employed for municipalities during the Tory Reaction.[166] There is no way to know for certain. What is clear is that the path for James II to create the Dominion was greatly eased by the absence of any legally-constituted authority in Massachusetts, a situation which was a direct consequence of the Bay Colonists' perceptions of and reactions to the corporate policy of the Tory Reaction. As contemporaries grappled with the nature of the empire and the relationship of its constituent parts, they frequently made recourse to the legal institutions on which colonial

[166] "Charter of Massachusetts Bay" (10/7/1691) in Francis Newton Thorpe, Ed., *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies now or heretofore forming the United States of America* (Washington, DC: Government Printing Office, 1909), III: 1870-1886. See "Measures to be Taken after the Vacation of the Charter" (11/8/1684) *Randolph*, III: 325-6; Michael G. Hall, "Randolph, Dudley, and the Massachusetts Moderates in 1683" *New England Quarterly* 29, no. 4 (Dec. 1956): 513-516.

authority was based. This recourse made it possible for imperial and metropolitan efforts at state building to borrow from each other by blurring the boundaries between them. Massachusetts Bay's status as a corporation was hugely important to actors on all sides in the 1680s. The issue, in the context of the turbulent politics of the Tory Reaction, was what that meant.

Epilogues

This dissertation has attempted to explain why corporate regulation posed such a persistent and profound problem for the Restoration monarchy of Charles II. It has explained that Charles II and his ministers pursued two distinct policies aimed at corporate regulation during the reign. In the 1660s, Solicitor General Heneage Finch and Lord Chancellor Edward Hyde, Earl of Clarendon put forth an essentially conservative corporate policy which sought to apply a light touch to problems of corporate misgovernment as a way of securing the restored regime against internal enemies. In general, it aimed to oust a minority of disloyal persons while leaving corporate charters intact. The problem was perceived to be narrow enough that proposals from the House of Lords to recharter all of England's corporations were rejected. Instead, only those corporations most repugnant to royal authority, such as Massachusetts Bay, would have their charters taken away. This approach failed, primarily because it lacked any means of enforcement – in England as in New England, disaffected corporate officeholders were asked to comply with the government and, upon refusing to do so, largely escaped further oversight. By 1680, even this had become intolerable to the disaffected – Whig MPs sought to repeal the Corporation Act, the linchpin of Restoration corporate policy in England, and Massachusetts Bay continued to buck any attempt to regulate their policies in matters of trade or religion. When Shaftesbury's *ignoramus* made clear how much capacity for mischief corporations possessed, and how weak Charles's tools to regulate them were, his ministers – chief among them Francis North – formulated a new corporate policy, one that required revising charters to increase royal capacities to regulate officeholders. This policy was a product of pressing political and religious controversies in England, but its consequence was a diminishment of republican self-government within the English state. Political divisions within English society, especially anxieties about an

alliance of nonconformists and republicans, made this new policy much more successful. This new corporate policy in turn influenced England's imperial constitution, as corporations for overseas trade and colonization were subjected to similar pressures to submit to royal authority. The Massachusetts Bay and East India Companies offer two very different approaches to this situation: Massachusetts followed the example of London and refused to surrender, while the EIC embraced the new policy to gain the benefits of alliance with the crown. Corporate law and politics were intertwined in Restoration England, a revelation with massive implications for our understanding of the early modern imperial constitution.

Both structural and ideological factors in late-17th century English society and government contributed to conflicts between Charles II and his corporations. Structurally, corporations were a part of the English state, in the sense that corporate officeholders were part of the network of officials wielding political power that were both legitimized and coordinated by a single center – in this period, the monarch. These officeholders exercised corporate "self-government" by balancing their dual responsibilities as delegates of royal authority and as promoters of "good government" within their jurisdictions. Ideally, these two responsibilities coexisted harmoniously. Yet in the late 17th century, thanks in large part to the growth of the public sphere and incessant debates about matters like religion, the constitution, and political economy, there was no consensus about how to achieve "good government" or what it ought to look like. Corporate officeholders in early modern England and its empire were divided ideologically from each other and from the crown; these ideological divisions fueled resistance to royal authority, conflict within corporations, and efforts by the crown to regulate corporations. For this reason, I have argued, it is impossible to understand the conflicts between Charles II and his corporations – whether in England or overseas – independent of restoration politics. At

various times over the course of the reign, corporate officeholders used the political power they wielded by virtue of their royal charters to support protestant nonconformity, exclusion, and Whiggery, and to oppose extraparliamentary revenues, royal persecution of political adversaries, and popery. These political disputes fueled constitutional conflict over the nature of corporate rights and their relationship to royal authority – debates about sovereignty were downstream of debates about policy. Charles II and his subjects struggled over control of corporate offices because corporations were critical sites where various ideas about "good government" could be enacted by officials wielding political power. The corporate policy of the Tory Reaction that has been the focus of most of this dissertation was, in large part, an effort to diminish the role of corporate self-government within the English state. The combination of the structural distribution of political power and the prevalence of debates about how that power ought to be used made corporate regulation a recurrent problem for the restoration monarchy.

It might be tempting to view the reign of Charles II (and his brother, James II) as an aberration, a brief authoritarian turn at the expense of corporate self-government that was undone at the revolution of 1688. Certainly, many aspects of Charles II's corporate policy were overturned at the revolution. In late summer and autumn of 1688, with news of William's invasion looming, James began to undo many of the changes he and his brother had wrought the preceding decade in a desperate bid to shore up support for his regime. On September 15 alone, James issued new charters restoring the traditional privileges of 19 municipalities. London, which had been governed by royal appointees without a charter since October 3, 1683, saw its privileges returned exactly five years later on October 3, 1688.[1] Later that month, James accelerated the pace and proclaimed that any charters where the surrender had not been enrolled

[1] Paul D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge: CUP, 1998), 351-352.

were restored.[2] Following the overthrow of the Dominion of New England in May 1689, Connecticut and Rhode Island resumed governing responsibilities under their surrendered charters, and Massachusetts acted under its own pending a confirmation of its charter. The alliance between the Stuarts and East India Company was likewise broken by the revolution, and the EIC spent most of the subsequent decade scrambling to protect itself from interlopers and south Asian polities while desperately shoring up support for its monopoly from the English government. One way of reading these changes, in line with many traditional interpretations of the "Glorious Revolution," is as straightforward rejection of the absolutist innovations of the Stuarts in favor of England's traditional, moderate, conservative constitutional order. On this account, the corporate policies of Charles II are of antiquarian interest, but they left little lasting impression on the legal, constitutional, or political landscape of England and its empire.

Such a reading would be erroneous. Although aspects of later Stuart corporate policy were rejected in 1688, the clock was not turned back to 1660. Instead, the corporate policies of the 1690s responded to, modified, and built upon the foundations laid by the Stuarts in the 1680s. A parliamentary attempt to "restore all bodies politic and corporate… to the state and condition they were in on" May 29, 1660, the date of Charles II's arrival in London, floundered when MPs failed to agree on whether or not to punish collaborators who had surrendered the grants in the first place.[3] In the 18th century, municipal corporations became increasingly sidelined as the post-revolutionary bureaucracy centered on parliament and the crown expanded to take on a broader range of functions. Meanwhile, despite frequent condemnation by Whig critics, *Rex v. London*

[2] *The London Gazette* #2391 (10/15-18/1688).
[3] *Journal of the House of Commons* (London: His Majesty's Stationery Office, 1803), X: 57, 322-3, 329-330; Felix James Henry Skene and Edward Fairfax Taylor, Eds., *Historical Manuscripts Commission Twelfth Report, Appendix, Part VI: The Manuscripts of the House of Lords, 1689-1690* (London: Her Majesty's Stationery Office, 1889), VI: 422-433; *Cobbett's Parliamentary History of England. From the Norman Conquest, in 1066 to the Yar 1803* (London: T. Curson Hansard, 1809), V: 508-516, 578.

remained good precedent, establishing both the legality of corporate surrender and that corporate privileges could be seized or forfeited in cases of misuse via *Quo Warranto*.[4] For the joint stocks, the association that they had cultivated with absolutism in the 1680s spurred a Whig backlash in the 1690s. *Nightingale v. Bridges* in 1689 stripped corporations of their ability to enforce their trading monopolies, entrusting that power to English courts and dealing a major blow to the Royal African Company.[5] The East India Company likewise suffered for its connection to the Stuarts, as its longstanding critics banded together with Whigs in the junto ministry and parliament to replace the "Governor and Merchants of London trading to the East Indies" with a new "English" East India Company. This new EIC was baked into the political economy of the revolutionary regime; its initial subscription was intended to pay the arrears of the soldiers of the Nine Years' War, and its foundation reflected the dual authority of king and parliament that was an important legacy of the revolution. As importantly, it was not an "apolitical" instrument, but instead a tool for an avowedly *Whig* model of political economy and trade created in response to the Tory domination of the old East India Company that Josiah Child had achieved in the early 1680s. This was transformation, not restoration. Yet perhaps the biggest transformation was in the plantation colonies. The antipathy the Lords of Trade had expressed for corporate and proprietary colonies was not dulled by the revolution. The Nine Years' War gave revenue collection and the Navigation Acts a renewed importance, and its North American theater made military coordination among the colonies of New England especially salient. As a result, the 1690s saw numerous proposals to bring the colonies into a more uniform system of commercial and military administration. Massachusetts Bay's 1691 charter combined a royally appointed

[4] Jennifer Levin, *The Charter Controversy in the City of London, 1660-1688, and its Consequences* (London: Athelone Press, 1969), 60-81, 96-108.
[5] W. Darrell Stump, "An Economic Consequence of 1688" *Albion: A Quarterly Journal Concerned with British Studies* 6, no. 1 (Spring 1974): 26-35.

governor with an elected assembly in a model that would come to dominate in the 18th century. The revolution did not bring about a return to the early 17th century model of a heterogenous empire of corporate and proprietary colonies but instead confirmed the shift towards a uniform system of royal administration. The three kinds of corporation that had been the subject of similar policies during the reign of Charles II became increasingly differentiated in the wake of the revolution as the state subordinated them in different ways.

This differentiation has only become more pronounced in the centuries since the revolution, as municipal, joint stock, and plantation colonies have acquired their distinct historical identities. The autonomy of English municipal corporations was eroded over the course of 140 years by a series of statutes beginning with the Municipal Reform Act in 1835 (which abolished many of the "rotten" boroughs) and culminating in the Local Government Act of 1972 (which reduced the number of governing councils in England by two-thirds and effectively stripped many municipalities of their autonomy). Today, England's municipal corporations have been largely subsumed into county jurisdictions, and the boroughs have become a subject of historical curiosity. The major joint stocks of the reign, such as the East India Company, are chiefly remembered for their role in Europe's pillage of Asia, Africa, and the Americas. They are most often rendered as private adventurers outside of the Anglo-British state, a move which mainly serves to exonerate Britain from any responsibility for its imperial past.[6] The corporations that colonized the eastern seaboard of North America, meanwhile, are remembered today as the foundations of modern constitutional republics. Their charters are treated like relics, as objects of civic worship that show the origins of the American experiment in self-government. In Massachusetts, the two colonial charters are on permanent display in the "Treasures Room" of

[6] Priya Satia, "The Scholarly Business of Corporations and Slavery: Political Fault Lines of the Economic History of Empire," *Journal of British Studies* 64, e8 (2025): 1-27.

the State Archives, where they rest beside such foundational documents of American history as the Declaration of Independence and the US Constitution. At the Connecticut Museum of Culture and History, visitors are invited to reenact the famous "Charter Oak" incident, a legendary event in which colonists hid the colony's charter in a great oak tree rather than surrender it to a royal governor. The colonial charter of Rhode Island and Providence Plantations is on permanent display in the state capitol building, a move which frames the legislature of the Ocean State as the modern incarnation of a 363 year experiment in self-government under law. In the 341 years since the death of Charles II, the corporations which have formed the focus of this dissertation have morphed under the weight of history so that their common early modern foundation is all but unrecognizable.

It is this common foundation that this dissertation has sought to excavate. It has recovered an understanding of corporations – whether in England, Bombay, or New England – as institutions in which subjects wielded political power to promote the common good. Such a view is obviously different from modern understandings of the corporation, which emphasize both their private nature and their tension with the public state. Yet perhaps it meets the moment better. In our era of democratic backsliding and authoritarian resurgence, the early modern idea of the corporation serves as a repudiation of retreat into the "private" sphere, and a reminder that the promotion of the public good is the constant responsibility of all citizens. It is likewise a reminder that political power can take many forms, particularly in a self-governing society. As this dissertation has made clear, such a notion is not guarantee of tranquility. Active citizenship like that practiced by early modern English corporate officeholders multiplies opportunities for political conflict by widening the political nation. Such are the burdens of self-government and mass politics. History cannot tell us whether those burdens are worth taking up; it can only hold

up its distant mirror and remind us that our modernity is one of many alternatives. The choice between those alternatives is ours alone.

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