

Sir Robert Heath's Patent 5 Charles 1st; October, 30 1629.

Charles by the grace of God of England Scotland France & Ireland King Defender of the faith &c: To all to whom these present l[ette]res shall come, greeting. We have seen the inrolement of certaine of our l[ette]res patents under our great scale of England made to Sr Robert Heath Knight our Attorney Generall, bearing date at Westminster the 30. day of October in the 5 yeare of our reigne & inrolled in our Court of Chancery, & remaining upon Record among the Roles of the Said Court in these words: The king to all to whom these present &c: greeting. Whereas our beloved and faithful subject and servant Sr Robert Heath Knight our Attorney Generall, kindled with a certain laudable and pious desire as well of enlarging the Christian religion as our Empoire & encreasing the Trade & Commerce of this our kingdom: A certaine Region or Territory to bee hereafter described, in our lands in the parts of America betwixt one & thirety & 36 degrees of northerne latitude inclusively placed (yet hitherto untild¹, neither inhabited by ours or the subjects of any other Christian king, Prince or state But some parts of it inhabited by certain Barbarous men who have not any knowledge of the Divine Dietye²) He being about to lead thither a Colonye of men large & plentifull, professing the true religion; seduously³ & industriously applying themselves to the culture of the sayd lands & to merchandising to be performed by industry & at his owne charges & others by his example. And in this his purpose in this allayer⁴ for our service and honour he hath given us full satisfaction, which purpose of his being soe laudable & manifestly tending to our honour, & the profit of our kingdome of England Wee with a Royal regard considering these things doe thinke meete to approve & prosecute them, for which end the sayd Sr Robert Heath hath humbly supplicated that all that Region with the Isles thereunto belonging with certain sorts of privileges & jurisdictions for the wholesome government of his Colonye & Region aforesaid & for the estate of the appurtenances⁵ may be given granted and confirmed to him, his heires & Assignes by our Royall Highnesse.

Know therefore that wee prosecuting with our Royall favor the pious & laudable purpose & desire of our aforesaid Attorney of our especiall grace certaine knowledge & meere motion, have given, granted & confirmed & by this our present charter to the said Sr Robert Heath Knight his heirs & assignee for ever, doe give, grant & confirme all that River or Rivelett of St Matthew on the South side & all that River or Rivelett of the great passe on the North side, & all the lands Tenements & Hereditaments⁶ lying, beeing & extending within or between the sayd Rivers by that draught or Tract to the Ocean upon the east side & soe to the west & soe fare as the Continent extends itselife with all & every their appurtenances & alsoe all those our Islands of beagus⁷ Bahama & all other Isles & Islands lying southerly there or neare upon the foresayd continent ail⁸ which lye inclusively within the degrees of 31 & 36 of Northerne latitude; And all

¹ Untitled.

² Deity, or God.

³ Sedulously, or Diligently, attentively.

⁴ A mitigator or an assauger.

⁵ A minor property, right, or privilege, belonging to another more important, and passing in possession with it (Oxford English Dictionary, OED henceforth).

⁶ An item of property that is inheritable.

⁷ We are unsure of the exact meaning of this word, as nothing similar appears in the OED. This spelling appears in both the Avalon and *Colonial Records of North Carolina* transcriptions. We intend to check this transcription in the TNA when we are able to view the original.

⁸ All.

& singular the ports & stations of shippes & the Creeks of the sea belonging to the Rivers, Islands & lands aforesaid; with the fishings of all sorts of fish, whales, sturgeons & of other Royalties⁹ in the sea or in the rivers moreover all veines, mines or pits either upon or conceald of Gold, Silver Jewells & precious stones & all other things whatsoever, whither of stones or metalls or any other thing or matter found or to be found in the Region Territory Isles or limitts aforesaid. And furthermore the patronages and advowsons¹⁰ of all churches which shall happen to be built hereafter in the said Region Territory & Isles and limitts by the increase of the religion & worship of Christ Together with all & singular these & these soe amply, Rights Jurisdictions, priviledges prerogatives Rovaltyes libertyes immunityes with Royall rights & franchises whatsoever as well by sea as by land, within that Region Territory Isles & limitts aforesaid To have exercise use & enjoy in like manner as any Bishop of Durham within the Bpricke or County palatine of Durham in our kingdome of England ever heretofore had held used or enjoyed or of right ought or could have hold use or enjoy.¹¹ And by the presents we make create & constitute the same Sr Robert Heath his heires & assignee true and absolute Lords & Proprietors of the Region & Territory aforesaid & all other the premises for us our heires & successors saveing alwaies the faith & allegiance due to us our heires & successors. To have hold possess & enjoy the said Region Isles Rivers & the rest of the premises to the said Sr Robert Heath Knight his heires & assignee to the sole & proper use & behoofe¹² of him Sr Robert Heath Knight his heires & assignee for ever with that meaning that the said Sr Robert Heath his heires & assignee shall plant the premisses according to certaine instructions & directions of oures signed with our Royall hand of the date of the presents remaining with our principall Secretary to our use our heires & successors To be held of us our heires & successors Kings of England in Cheife by knights service & by paying for it to us our heires & successors one Circle of Gold formed in the fashion of a crowne of the weight of twenty Ounces with this inscription ingraved upon it Deos Coronet Opus Suum¹³ whensoever & as often as it shall happen, that we our heires or successors shall enter the said Region, & also the fifth & part of all the metall of Gold & Silver (which in English is called Gold & Silver Oare) which shall from time to time happen to be found within the foresavd limits & such a proportion of the profitts & commodities out of the premises as are fully contained in the instructions & declarations aforesaid.

But that the aforesaid region or Territory soe granted & described may be more illustrious by us than all the other Regions of that land & may be adorned with more ample Titles.

Know that we of-our free grace certain knowledge & meere motion doe thinke fit to erect the sand Region Territory & Isles into a Province & by the fulness of our power & Kingly Authority for us our heires & successors, we doe erect & incorporate them into a province & name the same Carolina or the province of Carolina, & the foresaid Isles the Carolarns Islands & soe we will that in all times hereafter they shall be named. And because we herebefore have ordained &

⁹ Royalties.

¹⁰ The right to present a member of the clergy to a particular benefice or living (OED).

¹¹ This clause refers to the crown's eleventh century grant to the Bishop of Durham "extraordinary, almost regal, powers" over the territory under the bishopric (ecclesiastical territory). Such powers included the ability to legislate, create its own judicial system, and enjoy other rights and privileges as a sovereign of the territory. For more information, see Robert J. Cain, "Bishop of Durham Clause," in *Encyclopedia of North Carolina* ed. William S. Powell, (UNC Press, 2006), <https://www.ncpedia.org/bishop-durham-clause>, Accessed Sept. 30, 2021.

¹² Obliges, obligation, duty; Benefit, benefaction, a gratuity (both meanings obsolete according to OED).

¹³ Latin: God crowns his work (rough translation).

made the forest Sr Robert Heath Knight true lord & proprietor of all the aforesaid Province. Furthermore know ye that we for ourselves our heires & successors doe give power to the said Sr Robert (of whose faith prudence industry & provident circumspection we have great confidence) & to his heires & assignee for the good & happy Government of the said Province to forme make & enact & publish under the scale of the said Sr Robert his heires & assignee what lawes soever may concerns the publicke state of the said province or the private profit of all according to the wholesome directions of & with the counsell assent & approbation of the Freeholders of the same Province or the Major part of them who when & as often as need shall require shall by the aforesaid Sr Robert Heath his Heires & Assignes & in that forme which to him or them shall seem best, be called together to make lawes & those to be for all men within the said province & the bounds of it for the time being or under his or their Government or power either sayling towards Carolana or returning from thence either outward to England or outward to any other dominion of ours whatsoever constituted by imposition of fines imprisonment or any other constraint whatsoever & we grant to the said Sr Robert his heires & assignee free full & all kind of power by the Tenour of these presents if the qualitee of the offence requires it to punish by the losse of life or limbe by himself his heires or assignee, or by their Deputyes Lieutenants Judges Justices Magestrates Officers & ministers to be constituted & made according to the tenour & true intent of these presents duely to be executed: And also to the said Sr Robert Heath his Heires & assignee as to them shall seem most meet power of constituting & ordaining Judges & Justices Magestrates & officers whatsoever for whatsoever causes and with what power soever & in what forme by sea or by land. Alsoe crimes & all excesses whatsoever against such lawes either before judgement received or after, power of remitting releasing pardoning & abolishing; & all & singular complements of justice courts tribunalls forms of judgements & manners of processe belonging to them although there be not mention made nor expression of them in these presents which laws as aforesaid to be proclaimed & to be endowed with the most absolute firmnesse of right. we will injoyne command & order that they be inviolably observed & kept by all men the Lieges & Subjects of US our heires & successors (as farre as it may concerne them) & under the paines in them expressed & to be expressed yet soe that the foresaid lawes & ordinances be consonant treason and not repugnant or contrary but (as conveniently as may be done) consonant to the lawes, statutes, customer & rights of our Realme of England.

And because in the Government of soe great a Province sudden chances many times happen to which it will be necessary to apply a remedy before that the Freeholders of the sayd province can be called together to make lawes, neither will it be convenient, upon a continued title in an emergent occasion to gather together soe great a people therefore for the better Government of the sayd Province, we will & ordaine & by these presents for Us our Heires & Successors; doe grant unto the said Sr Robert Heath his Heires & Assignes by himself or by magistrates & officers duly constituted for that purpose (as before is sayd) shall & may have power from time to time to make & constitute wholesome & convenient Ordinances within the Province aforesaid & be kept & observed as well for the preserving the peace as for the better Government of the people there liveing; & to give publicke notice of them to all whom it doth or may concerne: which Ordinances we will that they be inviolably observed within the sayd Province under the paines expressed in them soe as the sayd Ordinances be consonant to Reason & not repugnant nor contrary, but (as conveniently as may be done) consonant to the laws, statutes & rights of our Realme of England as is aforesaid soe alsoe that the same Ordinances extend not themselves

against the right or interest of any person or persons or to distrayne¹⁴ bind or burden in or upon his freehold goods or chattels: or to be received any where there in the same Province or the Isles aforesayd.

Moreover that New Carolana may happily increase by the multitude of people thronging¹⁵ thither & alsoe that they be firmly defended from the incursions of the Barbarous & of others practicall or plundering enemyes. Therefore we for ourselves our Heires & Successors at the will & pleasure of the sayd Sr Robert Heath his heires and assignee, doe give & grant by these presents to all men & our subjects, ledges of our heires and successors both those in present & to come (unless it shall be in an especiall manner forbidden) power, licence & libertye to build & fortifye themselves & their families in the sayd Province of Carolana for the publicke safety of their seats there planted, tilled & inhabited with forts castles & other fortifications, with fitting stripes alsoe & convenient; furniture for transportation the statute of fugitives or any other whatsoever contrary to these premises in any wise notwithstanding. We will alsoe & for us our Heires & successors out of our great favour we firmly comand constitute ordaine & require that the said Province be in our Allegiance & that all & every our subjects: & ledges & of our heires & successors brought or to be brought into the said Province, their children either their already borne or hereafter to be borne are & shall be Naturall and leiges to us our Heires & successors & in all things shall be held, treated reputed & accounted as faithful ledges of us, our heires & successors borne in our Kingdom of England. And alsoe that they shall possesse lands, tenements, rents services & Hereditaments whatsoever with our Kingdome of England & other our Dominions to purchase, receive, take, have, hold, buy and possesse & them to use & enjoy & alsoe then to give sell alienate & bequeath & alsoe all libertyes, franchises & priviledges of this our Realme, to have & possess freely quietly & peaceably & that they may use enjoy them as our ledges borne or to be borne within our Kingdom of England without impediment molestation or vexation, claime or grievance from us our Heires & successors whatsoever; any statute, act Ordinance or provision here upon to the contrary notwithstanding: furthermore that our subjects may be incited with a ready & cheerful mind, to undertake this expedition with the hope of gaine & the meeknesse of priviledges. Know that we out of our especiall favour, certain knowledge & meere motion doe give license & grant free power, as well to the said Sr Robert Heath Knight his Heires & assignee as to all others who shall goe from time to time to inhabits in Carolana aforesaid, all & singular their goods as well moveable as immoveable wares, merchandise alsoe weapons & warlicke instruments offensive & defensive in any ports of ours, our Heires & successors to be laded in shipper, for to be transported into the province of Corolana, by him or his, or their assignee & this without molestation by us our Heires & successors or any officers of us our Heires or successors, or farmers to us, our Heires & successors: paying notwithstanding to us, our Heires & successors all & all manner of impositions, subsidyes, customes & other Dues for the sayd things wares & merchandises soe exported as are usuall & accustomed, any statute act Ordinance or other thing whatsoever to the contrary notwithstanding. Alwaies provided that before the sayd Goodes, things & merchandises are carried to & loaded in the shippes that licence for them be desired & obtained from the High Treasurer of the Kingdome of England to us, our heires & successors, or the commissioners for our Treasurye or from six or more of the Privy Councill, of us our Heires & successors inscribed under their hands To which Treasurer Commissioners & privy Councill of us our heirs & successors or to any sine or more of them;

¹⁴ Distrain: to constrain, force, or compel (OED).

¹⁵ To assemble or move in a group or crowd (OED).

we for ourselves our Heires & successors have given & granted as by these presents we doe give & grant power to grant licence in the form aforesayd. And because in soe remote a Region, seated among so many barbarous nations it is probable that the incursions as well of those Barbarous as of other enemies Pirates & Robbers may cause feare. Therefore we for ourselves our Heires & successors have given to the foresayd Sr Robert Heath Knight his heires & assignee by himself his Captains or other his officers, that all men of whatever condition, or wherever borne, being at that time in the Province of Carolana power to call to their colours, to cause Musters to make warre, to pursue enemies & Robbers aforesaid by land & sea, even beyond the bounds of his province, and then (with Gods blessing) to overcome & to take, & being taken by right of warre to slay, or according to his pleasure to preserve, & all & every thing which doe appertains to the right & office of a Captaine Generall or have been used to appertaine to be done & by these presents doe give full & free power as any Captaine Generall ever had.

Will will also & by this our charter doe give power, liberty and Authority to the foresayd Sr Robert Heath Knight his heires & assignee that in case of Rebellion sudden tumult or sedition, if any such shall chance to be which (God forbid) either upon the land within this Province aforesayd, or upon the wide Ocean, either making a journey towards Carolana aforesayd or returning from thence, we by these presents for us our heires & successors doe give & grant power and authoritye most ample to himself or by Captaines Deputyes or other their officers authorised to this purpose under their scales, against all authors of innovations, seditions against the Government of him or them, withdrawing themselves speakers evill of the militia, renegadors, deserters or any others whatsoever offending against the matter manner & discipline military shall by them be punished by law militarye soe freely and in such ample manner & forme as any Captaine Generall by the vertue of his office may or could doe

Furthermore least the way to Honours & Dignities may seem to be shuts & altogether barr'd up to men honestly borne, & are willing to undertake this present expedition & are desirous in soe remote and far distant a Region to deserve well of us & of our kingdomes in peace & warre for that doe for ourselves our heires & successors give full & free power to the foresayd Sr Robert Heath Knight his heires & assignee to confere favours graces & honours upon those well deserveing citizens that inhabit within the foresayd province & the same with whatever Titles & dignities¹⁶ (provided they be not the same as are now used in England) to adorne at his pleasure alsoe to erect villages into Borowes¹⁷ & Borowes into Cittyes for the meritts of the inhabitants and conveniency of the places with priviledges & befitting immunityes to be erected & incorporated, & to doe all other & singular upon the premises which shall seem most convenient to him or them, although they be such which of their owne natures doe require mandates or warrant more especiall then is expressed in these presents. And because the beginnings of Colonys & all publicke goods & affayres doe want to labour under divers¹⁸ inconveniences & difficutyes, therefore wee favoring the begining of this present Colonye, & that those that are molested in one thing may be relieved in another providing by our kingly care, out of our espetiall¹⁹ grace, certaine knowledge & meer motion, by this our charter do give and grant licence to the foresayd Sr Robert Heath his heires & assignee & to all the Dwellers & inhabits of

¹⁶ An honorable office, rank, or title of nobility (OED).

¹⁷ Boroughs, a municipality that is usually larger than a village.

¹⁸ Diverse.

¹⁹ Especial.

Carolana aforesayd whatsoever both present & to come: That whatsoever wares and merchandises out of the growth & increase of the sayd Province by land or sea, freely to bring by himselfe or his factors or assignee into whatever port of us, our heires & successors of our kingdomes of England or Ireland & them to unlode and otherwise thereof to dispose, or if need be continually to keep for a whole yeare the sayd merchandises from being unloaded, or them againe into the same or other shippes to lode, & to export them into what Regions soever they please whither ours or others strangers. Alwayes provided that soe many & such customes impositions subsidyes & Toles & other dutyes which they are bound to pay to us, our heires and successors & onely such & the like as our other subjects for the time beeing are bound to pay, beyond what & which by noe meanes we will that the inhabitants of the aforesayd Carolana be molested²⁰ or grieved.

And furthermore of our more ample & espetial favour & out of our certaine knowledge & meer motion we for ourselves our heires & successors doe grant to the foresayd Sr Robert Heath King his Heires & Assignes full & absolute power and authority of making erecting & constituting within the foresayd province of Carolana & the Isles aforesayd soe many or such sea-ports stations of shippes creeks & other places of lodeing for shippes boats & other vessels & in soe many & in such like places & with such rights jurisdictions libertyes & priviledges belonging to the like ports as to him or them shall seeme most expedient & that all & singular shippes boates & other vessells whatsoever, for whatever cause of merchandising comeing to or goeing from the sayd Province shall be laded & unladed²¹ only at such ports as shall be erected & appointed soe by the sayd Sr Robert Heath his Heires or assignee any use or custome or any other thing notwithstanding. Alwaies saveing & reserveing to ail our subjects of our Kingdom of England our Heires & successors liberty of fishing as well in the sea as in the creeks of the foresayd Province & priveledge to salt harden & drye fishes upon the shores of the said province; as it hath been reasonably used & enjoyed heretofore anything in these presents to the contrary notwithstanding. All which libertyes & priveledges the subjects of us our heires & successors as is aforesd shall enjoy yer without doeing any notable hurt or injury in any way to the aforesd Sr Robert Heath his heires & assignee or to the Dwellers or inhabitants on the ports, creeks & shores aforesayd of the same Province; & more especiall in their Trees there growing; And if any one committe any such harme or injury he shall undergoe the peril & danger of the highest displeasure of us our heires & successors & the due chastisement of the Law. And if by chance hereafter some doubts & questions may be framed about the true sence & meaning of any word clause or sentence contain'd in this our present charter we will, enjoyne & comand that alwaies & in all things that interpretation be used & shall be received in all our Courtes which shall be judged more benigne profitable & favourable to the foresayd S' Robert Heath Knight his Heires & assignee & to the Dwellers & inhabitants of the foresayd Province, provided alwaies that noe interpretation be made by which the religion of the holy God & true christian, or the Alleglance due to us our heires & successors may suffer in the least any lessening prejudice or losse. Neverthelesse we will & our trust in the aforesayd Sr Robert Heath Knight his heires & assignee is & the aforesaid Sr Robert Heath Knight for himselfe. his heires executors & assignee doth agree & grant to & with us our heires & successors that the sayd Sr Robert Heath Knight his heires & assignee in the Province & foresayd Isles to be planted & inhabited shall soe behave themselves in all things as we by our instructions and directions signed with our Royall hand as

²⁰ Disturbed, inconvenienced, meddled with.

²¹ Load and unload, particularly in relation to cargo on a ship (OED).

aforesaid most espetically to instruct & direct them, shall thinke most convenient and necessary for our honour & service.

Neverthelesse alwaies provided that it shall happen the River or Rivelett or Isles aforesayd or other the premises or any part or parcell of the same to be now granted to any person or persons by us or by our deare father King James, or is now actually possessed or inhabited by any of our subjects or by the subjects of any other Christian Prince or State, that then those our letters patents & all in them conteined, soe farre as the conteine soe much of the premises soe granted, and are now so actually possessed & inhabited as is aforesayd shall be void & of noe effect. These our letters patents or anything in them contained to the contrary in any wise notwithstanding. And that expresse mention &c.; In witsesse whereof &c: Witsesse the King at Westminster the thirtyeth day of Oct: & l[ett]re *de privato sigillo*²² And we have thought fit by these presents to exemplifye the Tenour and inrollment of our foresayd letters patents, at the request of the foresayd Sr Robert Heath Knight.

In Testimony whereof we have caused these our letters to be made patents witsesse our selfe at Canbury the fourth day of August in the seventh year of our Reign.

Exam: by us
ROB: RICH
et
JO: MYCHELL
clerckes.

²² Latin: from the private seal.