

The Charter of Carolina (1663)

WITH COMMENTARY BY DAVID WALBERT

As you read...

TWO KINGS CHARLES AND “CAROLANA”

In 1629, King Charles I of England granted the land between 31 and 36 degrees north latitude and from the Atlantic to the Pacific to his attorney general, Sir Robert Heath. Charles named the land after himself (“Carolana”). But Heath never managed to establish a colony.

In the 1640s, civil war broke out in England between Puritans and supporters of the king, and in 1649 Charles I was executed. For the next eleven years, England was ruled by Parliament and by a “Lord Protector,” Oliver Cromwell, who had led the Puritans in revolution. During that period of unrest, the English did not make any further efforts at colonizing the New World.

In 1660, Charles I’s son was invited to return from exile and take the throne as Charles II. He then granted eight of his friends — men who had stood by his side during his exile — the land previously granted to Heath, and renamed it Carolina.

PROPRIETARY POWER

The idea of a *proprietary colony* is a strange one today. Not only were the Lords Proprietors the owners of Carolina, but they were to rule everyone else living there! England in 1663 was a monarchy, ruled by a king. Although the people and nobles of England had a say in their government, through Parliament, Parliament convened only when the king called it, and kings could rule for years at a time without calling a Parliament. (Charles II ruled without Parliament from 1679 until his death in 1685.)

Much of English law regarding people’s rights and privileges, and especially the way land could be held, bought and sold, and inherited, was still based on the feudal system of the Middle Ages. Under the feudal system, everyone was subject to a higher lord, in a chain that led from the lowest agricultural workers all the way to the king. Political and military power in this system came from above — ultimately, from the king — rather than from the people.

In this context, a proprietary colony starts to make sense. The Lords Proprietors were granted an extreme form of feudal lordship over Carolina, and settlers would be subject to them just as the proprietors themselves were subject to the king. The Lords Proprietors ruled Carolina in the king’s name. They could pass laws with the assent of a legislative body (like a mini-Parliament), establish towns and ports, tax residents, raise armies, and make war on enemies.

READING THE CHARTER

Because the Charter of Carolina lists all of the specific powers of the Lords Proprietors, it is a fascinating window into the legal and political system of seventeenth-century England. Unfortunately, it is also long,

repetitive, and legalistic — and written in rather flowery seventeenth-century language. We don't recommend that you simply sit down to read it from start to finish. You may want to start by skimming the headings we've added in the sidebar. Then look at the highlighted passages and read the comments to understand what's going on. From there, you can read forward and backward in each paragraph to get some context.

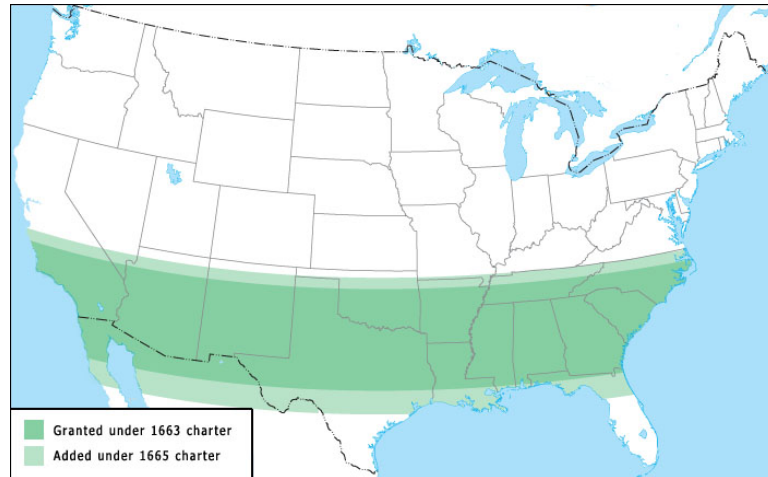


Figure 1. The (highly theoretical) boundaries of the land granted the Lords Proprietors under the charters of 1663 and 1665.

CHARLES the Second, by the grace of God, king of England, Scotland, France¹, and Ireland, Defender of the Faith, &c.², To all to whom these present shall come: Greeting:

Who the Lords Proprietors were and what they wished to do.

1st. Whereas our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, our high chancellor³ of England, and George Duke of Albemarle, master of our horse⁴ and captain general of all our forces⁵, our right trusty and well beloved William Lord Craven, John Lord Berkley, our right trusty and well beloved counsellor⁶, Anthony Lord Ashley, chancellor of our exchequer⁷, Sir George Carteret, knight and baronet⁸, vice chamberlain of our household⁹, and our trusty and well beloved Sir William Berkley, knight, and Sir John Colleton, knight and baronet, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominions, have humbly besought leave of us, by their industry and charge, to transport and make an ample colony of our subjects, natives of our kingdom of England, and elsewhere within our dominions, unto a certain country hereafter described, in the parts of America not yet cultivated or planted¹⁰, and only inhabited by some barbarous people, who have no knowledge of Almighty God¹¹.

Defining the extent of the land being granted.

2d. And whereas the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton have humbly besought us to give, grant and confirm unto them and their heirs, the said country, with priviledges and jurisdictions requisite for the good government and safety thereof: Know ye, therefore, that we, favouring the pious and noble purpose of the said Edward Earl of Clarendon, George Duke

of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, of our special grace, certain knowledge and meer motion¹², have given, granted atoll confirmed, and by this our present charter, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, Atolls Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, all that territory or tract of ground¹³, scituate, lying and being within our dominions of America, extending from the north end of the island called Lucke island, which lieth in the southern Virginia seas, and within six and thirty degrees of the northern latitude, and to the west as far as the south seas¹⁴, and so southerly as far as the river St. Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude, and so west in a direct line as far as the south seas aforesaid; together with all and singular ports, harbours, bays, rivers, isles and islets belonging to the country aforesaid; and also all the soil, lands, fields, woods, mountlills, fields, lakes, rivers, bays and islets, scituate or being within the bounds or limits aforesaid, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes¹⁵ in the sea, bays, islets and rivers within the premises, and the fish therein taken; and moreover all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems, precious stones, and all other whatsoever, be it of stones, metals, or any other thing whatsoever, found or to be found within the countries, isles and limits aforesaid.

Powers regarding the Church.

3d. And furthermore, the patronage and advowsons of all the churches and chappels¹⁶, which as Christian religion shall increase within the country, isles, islets and limits aforesaid, shall happen hereafter to be erected, together with license and power to build and found churches, chappels and oratories, in convenient and fit places, within the said bounds and limits, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England, together with all and singular the like, and as ample rights, jurisdictions, priviledges, prerogatives, royalties, liberties, immunities and franchises of what kind soever, within the countries, isles, islets and limits aforesaid.

Extent of the Lords Proprietors' power.

4th. To have, use, exercise and enjoy, and in as ample manner as any bishop of Durham in our kingdom of England, ever heretofore have held, used or enjoyed, or of right ought or could have, use, or enjoy.¹⁷ And them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, we do by these presents, for us, our heirs and successors, make, create and constitute the true and absolute Lords Proprietors of the country aforesaid, and of all other the premises; saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors¹⁸, for the same, and saving also the right, title and interest of all and every our subjects of the English nation, which are now planted within the limits and bounds aforesaid (if any be)¹⁹. To have, hold, possess and enjoy the said country, isles, islets, and all and singular other the premises, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns forever, to be holden of us, our heirs and successors, as of our manner of East Greenwich in our county of Kent²⁰, in free and common soccage, and not in capite, or by knight service²¹; yielding and paying yearly to us, our heirs and successors, for the same, the yearly rent of twenty marks²² of lawful money of England, at the feast of All Saints²³, yearly forever, the first payment thereof to

begin and to be made on the feast of All Saints, which shall be in the year of our Lord one thousand six hundred and sixty-five, and also the fourth part of all gold or silver ore, which, within the limits aforesaid, shall from time to time happen to be found.

Naming the province of
Carolina; providing for its good
government, including
legislative assemblies and
courts.

5th. And that the country, thus by us granted and described, may be dignified by us with as large titles and privileges as any other part of our dominions and territories in that region, Know ye, that we of our further grace, certain knowledge, and meer motion, have thought fit to erect the same tract of ground, county, and island, into a province, and out of the fulness of our royal power and prerogative, we do, for us, our heirs and successors, erect, incorporate and ordain the same into a province, and call it the Province of Carolina, and so from henceforth will have it called; and forasmuch as we have hereby made and ordained the aforesaid Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, the true lords and proprietors of all the province aforesaid; Know ye, therefore moreover that we, reposing especial trust and confidence in their fidelity, wisdom, justice and provident circumspection, for us, our heirs and successors, do grant full and absolute power, by virtue of these presents, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, for the good and happy government of the said province, to ordain, make, enact, and under their seals to publish any laws whatsoever²⁴, either appertaining to the publick state of the said province, or to the private utility of particular persons²⁵, according to their best discretion, of and with the advice, assent and approbation of the freemen of the said province, or of the greater part of them, or of their delegates or deputies²⁶, whom for enacting of the said laws, when and as often as need shall require, we will that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, shall from time to time assemble in such manner and form as to them shall seem best, and the same laws duly to execute upon all people within the said province and limits thereof²⁷, for the time being, or which shall be constituted under the power and government of them or any of them, either sailing towards the said province of Carolina, or returning from thence towards England, or any other of our, or foreign dominions, by imposition of penalties, imprisonment or any other punishment; yea, if it shall be needfull, and the quality of the offence requires it, by taking away member and life²⁸, either by them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, or by them or their deputies, lieutenants, judges, justices, magistrates, officers and members to be ordained or appointed according to the tenor and true intention of these presents; and likewise to appoint and establish any judges or justices, magistrates or officers whatsoever, within the said province, at sea or land, in such manner and form as unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton and their heirs shall seem most convenient; also, to remit, release, pardon and abolish (whether before judgment or after) all crimes and offences whatsoever, against the said laws, and to do all and every other thing and things, which unto the compleat establishment of Justice unto courts, sessions, and forms of judicature and manners of proceedings therein do

belong, although in these presents express mention be not made thereof²⁹; and by judges and by him or them delegated, to award process, hold pleas, and determine in all the said courts, and places of judicature, all actions, suits and causes whatsoever, as well criminal or civil, real, mixt, personal, or of any other kind or nature whatsoever; which laws, so as aforesaid to be published, our pleasure is, and we do require, enjoin and command, shall be absolute, firm and available in law, and that all the liege people of us, our heirs and successors, within the said province of Carolina, do observe and keep the same inviolably in those parts³⁰, so far as they concern them, under the pains and penalties therein expressed, or to be expressed: Provided nevertheless, that the said laws be consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.³¹

Power of the Lords Proprietors to make laws when a legislative assembly is unavailable, within certain constraints.

6th. And because such assemblies of freeholders³² cannot be so conveniently called, as there may be occasion to require the same, we do, therefore, by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves or their magistrates, in that behalf lawfully authorized full power and authority from time to time to make and ordain fit and wholesome orders and ordinances, within the province aforesaid to be kept and observed as well for the keeping of the peace, as for the better government of the people there abiding³³, and to publish the same to all to whom it may concern; which ordinances, we do by these presents straightly charge and command to be inviolably observed within the said province, under the penalties therein expressed, so as such ordinances be reasonable, and not repugnant or contrary, but as near as may be, agreeable to the laws and statutes of this our kingdom of England, and so as the same ordinances do not extend to the binding, charging, or taking away of the right or interest of any person or persons, in their freehold, goods or chattels whatsoever.

The King's subjects are permitted to emigrate to Carolina, and shall remain the King's subjects there, as will their descendants.

7th. And to the end the said province may be more happily increased, by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of salvages and other enemies, pirates and robbers³⁴, therefore we, for us, our heirs and successors, do give and grant by these presents, power, license and liberty unto all the liege people of us, our heirs and successors in our kingdom of England or elsewhere, within any other our dominions, islands, colonies or plantations, (excepting those who shall be especially forbidden,) to transport themselves and families unto the said province³⁵, with convenient shipping and fitting provisions, and there to settle themselves, dwell and inhabit, any law, statute, act, ordinance, or other thing to the contrary in any wise notwithstanding. And we will also, and of our more special grace, for us, our heirs and successors, do straightly enjoin, ordain, constitute and command, that the said province of Carolina, shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported or to be transported into the said province, and the children of them and of such as shall descend from them, there born or hereafter to be born, be and shall be denizens and lieges³⁶ of us, our heirs and successors of this our kingdom of England, and be in all things held, treated, and reputed as the liege faithful people of us, our heirs and successors, born within this our said kingdom, or any other of our dominions, and may inherit or otherwise purchase and receive, take, hold, buy and possess any lands, tenements or hereditaments within the same places, and them may occupy, possess and enjoy, give, sell, aliene and bequeathe; as likewise all liberties,

franchises and privileges of this our kingdom of England, and of other our dominions aforesaid, and may freely and quietly have, possess and enjoy, as our liege people born within the same, without the least molestation, vexation, trouble or grievance of us, our heirs and successors, any statute, act, ordinance, or provision to the contrary notwithstanding.

Settlers in Carolina may trade freely, subject to the laws of England.

8th. And furthermore, that our subjects of this our said kingdom of England, and other our dominions, may be the rather encouraged to undertake this expedition with ready and cheerful minds, know ye, that we of our special grace, certain knowledge and meer motion, do give and grant by virtue of these presents, as well to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, and their heirs, as unto all others as shall from time to time repair unto the said province, with a purpose to inhabit there, or to trade with the natives of the said province, full liberty and license to lade and freight in any port whatsoever, of us, our heirs and successors, and into the said province of Carolina, by them, their servants or assigns, to transport all and singular their goods, wares and merchandises, as likewise all sorts of grain whatsoever, and any other things whatsoever, necessary for the food and clothing, not prohibited by the laws and statutes of our kingdoms and dominions³⁷, to be carried out of the same, without any let or molestation of us, our heirs and successors, or of any other of our officers, or ministers whatsoever, saving also to us, our heirs and successors, the customs and other duties and payments, due for the said wares and merchandises, according to the several rates of the places from whence the same shall be transported. We will also, and by these presents, for us, our heirs and successors, do give and grant license by this our charter, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the inhabitants and dwellers in the province aforesaid, both present and to come, full power and absolute authority to import or unlade by themselves or their servants, factors or assigns, all merchandises and goods whatsoever, that shall arise of the fruits and commodities of the said province, either by land or by sea, into any of the ports of us, our heirs and successors, in our kingdom of England, Scotland or Ireland, or otherwise to dispose of the said goods, in the said ports; and if need be, within one year next after the unlading, to lade the said merchandises and goods again into the same or other ships, and to export the same into any other countries either of our dominions, or foreign being in amity with us, our heirs and successors, so as they pay such customs, subsidies, and other duties for the same, to us, our heirs and successors, as the rest of our subjects of this our kingdom, for the time being, shall be bound to pay, beyond which we will not, that the inhabitants of the said province of Carolina, shall be any ways charged.

To promote trade and settlement, import duties are suspended for four years.

9th. Provided nevertheless, and our will and pleasure is, and we have further for the consideration aforesaid, of our more especial grace, certain knowledge, and meer motion, given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, at any time or times, from and after the feast of St. Michael the archangel³⁸, which shall be in the year of our Lord Christ, one thousand six hundred sixty and seven, as well to import,

and bring into any of our dominions from the said province of Carolina, or any part thereof, the several goods and commodities, hereinafter mentioned, that is to say, silks, wines, currants, raisins, capers, wax, almonds, oyl and olives, without paying or answering to us, our heirs or successors, any custom, import, or other duty³⁹, for and in respect thereof, for and during the term and space of seven years, to commence and be accompted, from and after the first importation of four tons of any the said goods, in any one bottom, ship or vessel from the said province, into any of our dominions, as also to export and carry out of any of our dominions, into the said province of Carolina, custom free, all sorts of tools which shall be usefull or necessary for the planters there, in the accommodation and improvement of the premises, any thing before, in these presents contained, or any law, act, statute, prohibition or other matter, or anything heretofore had, made, enacted or provided, or hereafter to be had, made, enacted or provided, to the contrary, in any wise notwithstanding.

Power to make and
control ports for trade.

10th. And furthermore, of our own ample and especial grace, certain knowledge, and meer motion, we do for us, our heirs and successors, grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, full and absolute power and authority to make erect and constitute, within the said province of Carolina, and the isles and islets aforesaid, such and so many seaports, harbours, creeks and other places, for discharge and unlading of goods and merchandises, out of ships, boats and other vessels, and for lading of them, in such and so many places, and with such jurisdiction, priviledges and franchises unto the said ports belonging, as to them shall seem most expedient, and that all and singular the ships, boats and other vessels, which shall come for merchandises and trade into the said province, or shall depart out of the same, shall be laden and unladen at such ports only⁴⁰, as shall be erected and constituted by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, Jolm Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not elsewhere, any use, custom or any other thing to the contrary, in any wise notwithstanding.

Power to tax imports and
exports with the consent of the
settlers' legislative assembly.

11th. And we do furthermore will, appoint and ordain, and by these presents for us, our heirs and successors, do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, that they the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, may from time to time forever, have and enjoy, the customs and subsidies in the ports, harbors, creeks and other places within the province aforesaid, payable for goods, merchandise and wares, there laded or to be laded, or unladed, the said customs to be reasonably assessed, upon any occasion, by themselves, and by and with the consent of the free people there⁴¹, or the greater part of them as aforesaid; to whom we give power by these presents, for us, our heirs and successors, upon just cause and in a due proportion, to assess and impose the same.

Power to grant or sell
land.

12th. And further, of our special grace, certain knowledge, and meer motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George

Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and absolute license, power and authority, that the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, Sir John Colleton, their heirs and assigns, from time to time, hereafter, forever, at his and their will and pleasure, may assign, alien, grant, demise or enfeof the premises, or any part or parcels thereof, to him or them that shall be willing to purchase the same, and to such person or persons as they shall think fit, to have and to hold, to them the said person or persons, their heirs or assigns, in fee simple or fee taylor, or for term for life, or lives, or years, to be held of them⁴², the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, their heirs and assigns, by such rents, services and customs, as shall seem meet⁴³ to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and not immediately of us, our heirs and successors, and to the same person and persons, and to all and every of them, we do give and grant by these presents, for us, our heirs and successors, license, authority and power, that such person or persons, may have or take the premises, or any parcel thereof, of the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and the same to hold, to themselves, their heirs or assigns, in what estate of inheritance whatsoever, in fee simple, or fee taylor, or otherwise, as to them and the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, shall seem expedient; the statute made in the parliament of Edward, son of King Henry, heretofore king of England, our predecessor, commonly called the statute of “quia emptores terrarum;”⁴⁴ or any other statute, act, ordinance, use, law, custom or any other matter, cause or thing heretofore published, or provided to the contrary, in any wise notwithstanding.

Power to confer
hereditary titles upon settlers in
Carolina.

13th. And because many persons born, or inhabiting in the said province, for their deserts and services, may expect and be capable of marks of honor and favor, which, in respect of the great distance, cannot be conveniently conferred by us⁴⁵; our will and pleasure therefore is, and we do by these presents, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power and authority, to give and confer, unto and upon, such of the inhabitants of the said province, as they shall think do or shall merit the same, such marks of favour and titles of honour as they shall think fit so as these titles of honour be not the same as are enjoyed by, or conferred upon any the subjects of this our kingdom of England.

Power to establish towns
and to arrange for their
defense.

14th. And further also, we do by these presents, for us, our heirs and successors, give and grant license to them, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and license to erect, raise and build within the said province and places aforesaid, or any part or parts thereof, such and so many forts, fortresses, castles, cities, boroughs, towns, villages

and other fortifications whatsoever⁴⁶, and the same or any of them to fortify and furnish with ordinance, powder, shot, armory, and all other weapons, ammunition, habilements of war, both offensive and defensive⁴⁷, as shall be thought fit and convenient for the safety and welfare of the said province and places, or any part thereof, and the same, or any of them from time to time, as occasion shall require, to dismantle, disfurnish, demolish and pull down, and also to place, constitute and appoint in and over all or any of the castles, forts, fortifications, cities, towns and places aforesaid, governors, deputy governors, magistrates, sheriffs and other officers, civil and military, as to them shall seem meet⁴⁸, and to the said cities, boroughs, towns, villages, or any other place or places within the said province, to grant “letters or charters of incorporation,”⁴⁹ with all liberties, franchises and privileges, requisite and usefull, or to or within any corporations, within this our kingdom of England, granted or belonging; and in the same cities, boroughs, towns and other places, to constitute, erect and appoint such and so many markets, marts and fairs, as shall in that behalf be thought fit and necessary; and further also to erect and make in the province aforesaid, or any part thereof, so many mannors⁵⁰ as to them shall seem meet and convenient, and in every of the said mannors to have and to hold a court baron, with all things whatsoever which to a court baron do belong, and to have and to hold views of “frank pledge” and “court leet,” for the conservation of the peace and better government of those parts within such limits, jurisdictions, and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley and Sir John Colleton, or their heirs, shall be appointed for that purpose, with all things whatsoever, which to a court leet, or view of frank pledge do belong, the said court to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or their heirs, or by the lords of other manners and leets, for the time being, when the same shall be erected.

Power to raise armies.

15th. And because that in so remote a country, and scituate among so many barbarous nations, and the invasions as well of salvages as of other enemies, pirates and robbers, may probably be feared; therefore we have given, and for us, our heirs and successors, do give power, by these presents, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, by themselves, or their captains, or other their officers, to levy, muster and train all sorts of men, of what condition or wheresoever born, in the said province for the time being, and to make war and pursue the enemies aforesaid, as well by sea as by land, yea, even without the limits of the said province⁵¹, and by God’s assistance to vanquish and take them, and being taken to put them to death by the law of war, or to save them at their pleasure; and to do all and every other thing, which unto the charge of a captain general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain general of an army hath or ever had the same.

Power to declare martial law in case of rebellion.

16th. Also our will and pleasure is, and by this our charter we give unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, (if any should happen,) which God forbid, either upon the land within

the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him or themselves, their captains, deputies and officers, to be authorized under his or their seals for that purpose, to whom also, for us, our heirs and successors, we do give and grant by these presents, full power and authority, to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves to their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their colours or ensigns, or be loyterers or straglers, or otherwise howsoever offending against law, custom or discipline military⁵², as freely and in as ample manner and form as any captain general of an army by vertue of his office, might or hath accustomed to use the same.

Inhabitants of Carolina to be subjects of the king and not subject to the laws of other colonies or nations.

17th. And our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, and to all the tenants and inhabitants of the said province of Carolina, both present and to come, and to every of them, that the said province and the tenants and inhabitants thereof, shall not from henceforth be held or reputed a member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in anything, but be absolutely seperated and divided from the same; and our pleasure is, by these presents, that they be seperated, and that they be subject immediately to our crown of England, as depending thereof forever⁵³; and that the inhabitants of the said Province, nor any of them, shall at any time hereafter be compelled or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the Province aforesaid⁵⁴, in any other of our islands, colonies, or dominions in America or elsewhere, other than in our realm of England, and dominion of Wales.

Inhabitants permitted free exercise of religion.

18th. And because it may happen that some of the people and inhabitants of the said province, cannot in their private opinions, conform to the publick exercise of religion, according to the liturgy, form and ceremonies of the church of England, or take and subscribe the oaths and articles, made and established in that behalf⁵⁵, and for that the same, by reason of the remote distances of these places, will, we hope be no breach of the unity and uniformity established in this nation; our will and pleasure therefore is, and we do by these presents, for us, our heirs and successors, give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, full and free license, liberty and authority, by such legal ways and means as they shall think fit, to give and grant unto such person or persons, inhabiting and being within the said province, or any part thereof, who really in their judgments, and for conscience sake, cannot or shall not conform to the said liturgy and ceremonies, and take and subscribe the oaths and articles aforesaid, or any of them, such indulgencies and dispensations in that behalf, for and during such time and times, and with such limitations and restrictions as they, the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs or assigns, shall in their discretion think fit and reasonable; and with this express proviso, and limitation also, that such person and persons, to whom such indulgencies and dispensations shall be granted as

The Lords Proprietors
should be given benefit of the
doubt in court.

aforesaid, do and shall from time to time declare and continue, all fidelity, loyalty and obedience to us, our heirs and successors, and be subject and obedient to all other the laws, ordinances, and constitutions of the said province, in all matters whatsoever, as well ecclesiastical as civil, and do not in any wise disturb the peace and safety thereof, or scandalize or reproach the said liturgy, forms and ceremonies, or anything relating thereunto, or any person or persons whatsoever, for or in respect of his or their use or exercise thereof, or his or their obedience and conformity, thereunto.

19th. And in case it shall happen, that any doubts or questions should arise, concerning the true sense and understanding of any word, clause or sentence contained in this our present charter, we will, ordain and command, that at all times, and in all things, such interpretation be made thereof, and allowed in all and every of our courts whatsoever, as lawfully may be adjudged most advantageous and favourable to the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven, John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, their heirs and assigns, although express mention be not made in these presents, of the true yearly value and certainty of the premises, or any part thereof, or of any other gifts and grants made by us, our ancestors, or predecessors, to them the said Edward Earl of Clarendon, George Duke of Albemarle, William Lord Craven John Lord Berkley, Anthony Lord Ashley, Sir George Carteret, Sir William Berkley, and Sir John Colleton, or any other person or persons whatsoever, or any statute, act, ordinance, provision, proclamation or restraint, heretofore had, made, published, ordained or provided, or any other thing, cause or matter, whatsoever, to the contrary thereof, in any wise notwithstanding.

In Witness, &c.

Witness the King, at Westminster, the four and twentieth day of March, in the fifteenth year of our reign⁵⁶, (1663.)

PER IPSUM REGEM⁵⁷.

On the web

A proprietary colony: Exploring the Charter of Carolina

<http://learnnc.org/lp/editions/nchist-colonial-lessons/1.3>

In this lesson for grade 8, students will examine the 1663 Charter of Carolina and complete a graphic organizer exploring the elements of the Charter. Students will then write a letter to the king of England from the perspective of one of the Lords Proprietors.

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Visit us on the web at www.learnnc.org to learn more about topics related to this article, including Charles I, Charles II, England, Lords Proprietors, North Carolina, South Carolina, feudalism, government, history, religious freedom, and trade.

Notes

1. English kings were descended from French royalty, specifically from William I of Normandy who conquered England in 1066. In 1337, Edward III declared himself the rightful heir of the throne of France, thus beginning the Hundred Years' War (1337–1453) between England and

France. Edward conquered parts of France but never secured his claim to the throne, and his successors lost all the territory Edward had conquered.

Nevertheless, British monarchs referred to themselves as kings and queens of France until 1801!

2. “&c.” is an old form of “etc.,” which is short for “et cetera,” Latin for “and the rest.” The ampersand is actually a contraction for the Latin word *et* (and), as you might be able to see if you look closely and use your imagination.

In this case, the “et cetera” replaced the older, longer form, “and of the Church of England and also of Ireland in Earth, under Jesus Christ, Supreme Head.” The change was made during the reign of Mary I. Mary was Catholic, and though she remained head of the Protestant Church of England her father Henry VIII had established, she dropped the mention of it from her title. None of her successors brought back the longer form, and the “etc.” itself was dropped in 1801

3. The Lord High Chancellor was speaker (presiding officer) of the House of Lords, Britain’s upper legislative house made up of hereditary nobility — that is, of people who inherited their titles, such as earl or baron. Until the 1800s, the House of Lords was more powerful than the House of Commons, and so the Lord Chancellor, appointed by the King, was one of the most powerful men in England.
4. The *master of the horse* was in charge of the king’s stables and all matters involving the king’s horses. While this is not a particularly important job today, it was crucial in the 1600s, when horses were the primary method of land transportation and essential in war.
5. The title of *Captain General* evolved into today’s General.
6. The king’s *privy council* was a body of men who gave him advice on matters of state. The privy council served the purpose of the President’s cabinet in the United States.
7. The Chancellor of the Exchequer was in charge of the king’s finances and treasury.
8. A *baronet* was a hereditary rank above a knight but lower than baron.
9. The Lord Chamberlain of the Household is the king or queen’s private secretary and is responsible for organizing court functions.
10. Because the Indians had not “cultivated or planted” their land, the English argued that they were not really using it. Of course, many of North Carolina’s Indians did practice agriculture, but it was a less intensive agriculture than Europeans practiced, and the English were inclined to dismiss it. Since the Indians were not, by English standards, making proper use of the land they occupied, the English felt justified in taking their land for European-style agricultural use.
11. The fact that the native peoples of the Americas were not Christian was a major factor in Europeans’ disdain for them. It justified, in European eyes, their conquest and, in many cases, forcible conversion to Christianity.
12. This phrase appears several times in the charter to emphasize the king’s authority. First, you’ll notice that the king refers to himself in the plural — *we*, *us*, and *our*. The use of a plural form to refer to a king has been a common way of showing respect in many languages and cultures.

Special grace means that the king is granting these privileges as gifts to his chosen followers — like the “grace of God,” the king’s grace is freely given and is not owed to anyone. *Certain knowledge* simply means that the king is sure of what he is doing. *Mere [meer] motion* is a legal

term meaning “of [one’s] own motives.” Something done of “mere motion” is done without anyone else’s authority or command.

13. Here the borders of Carolina are defined as all the land from 31° to 36° north latitude, from the Atlantic to the Pacific. In 1663, no one knew for certain just how far away the Pacific was, and no one in England had any immediate plans to find out, so this was a purely theoretical grant of land. In practice, the Lords Proprietors were granted land as far west as they could find men to colonize it.

Carolina’s boundaries are also determined by geographic features believed to be at the specified latitudes. The northern boundary is defined as the latitude of Lucke Island, in the “south Virginia seas” — Albemarle Sound. Virginians had already settled Albemarle, and that settlement was left under the control of Virginia’s governor.

The southern boundary is also defined as the latitude of the mouth of the St. Matthias River, now called the St. Johns River, on the coast of Florida. The 31° latitude line is actually a bit north of the current Georgia-Florida border, while the St. Johns River emerges near present-day Jacksonville, Florida. At the time, Spain controlled Florida, and Carolina was intended as a buffer against Spanish expansion in America. Georgia would be carved out of Carolina in 1733.

Two years after Charles II granted the original charter, the Carolina Charter of 1665 enlarged the grant, defining Carolina’s northern boundary at “the north end of Currituck River or Inlet, upon a strait westerly line to Wyanoak Creek,” or 36° 30′ (36 degrees 30 minutes, or 36 and one-half degrees) north latitude. The southern boundary was then defined as 29° north latitude, which would place it in northern Florida. That northern line added the Albemarle settlement to Carolina and became the present-day border between North Carolina and Virginia, although it took several border disputes and attempts at surveying before everyone finally agreed on where, exactly, it was.

14. Note that the western border of Carolina is defined as the “south seas” and not, as we would call it, the Pacific Ocean.

Vasco Núñez de Balboa was the first European to reach the Pacific Ocean from the New World, and he found it by crossing the Isthmus of Panama in 1513. Panama, at its narrowest point, actually runs east to west and borders the Atlantic on the north and the Pacific on the south. When Balboa found the Pacific, therefore, he was headed south, and named his discovery the “South Sea.” (Balboa, even more ambitious in his claims than Charles II, claimed the entire South Sea and all land bordering upon it in the name of Spain!) Not until Magellan circumnavigated the globe (sailed all the way around the world) in 1519 was it realized that the “South Sea” was connected to the ocean east of China.

Even then, Europeans didn’t think of all this water as a single ocean, and they didn’t immediately follow Magellan’s lead by calling it the “Pacific.” To reach the Pacific Ocean by sea, Europeans had to sail far south around Cape Horn, the southern tip of South America — nearly as far south as Antarctica. When they sailed westward towards Asia, they did so at southern latitudes. So “South Sea” was a reasonable name for this faraway ocean. Only in the late 1700s did Europeans begin to realize the full extent of the “South Sea” and begin to think of it, as we do today, as a single Pacific Ocean.

(See “Naming the Pacific (see <http://www.learnnc.orghttp://www.common-place.org/vol-05/no-02/peterson/index.shtml>)” for more about how our perception of the world’s oceans has changed over time.)

15. “Fishes royal” — sturgeons, porpoises, whales and dolphins — when caught off the coast of Britain or its possessions, were the property of the crown. This law is still in effect today. Here the claim to royal fishes caught in the rivers and bays of Carolina is transferred to the Lords Proprietors.
16. *Avowdson* is the right to nominate someone to church office. As Charles II was head of the Church of England, the Lords Proprietors were effectively its head in the king’s name in North Carolina.
17. The Prince Bishops of Durham, a county in northern England, ruled the north of England in the King’s name during the Middle Ages because it was too far from London for the king to rule directly. The Prince Bishops had authority over armies, taxes, courts, and even the coining of money. By 1663 they no longer had such power, but they are used here as an example of the kind of power granted the Lords Proprietors.

The word “enjoy” here also suggests the extent of the Lords Proprietors’ power.

18. Although the Lords Proprietors were granted vast powers, they were bound to respect the ultimate authority of the king.
19. The powers granted in this charter were not intended to override any grants of land or special privileges already held by English subjects living in Carolina. The assumption seems to be that no one holding such titles or privileges were already “planted” there.
20. The seventeenth-century charters of Virginia, New England (under which the Pilgrims settled) Massachusetts Bay, Rhode Island, New York, and New Jersey — as well as Carolina — all grant land “as of the Manor of East Greenwich in the County of Kent.” Legally, for the king to grant land, the land must belong to some manor under his direct control that had not already been granted to someone else. In these charters, the land was defined for legal purposes as being part of the Manor of East Greenwich. East Greenwich was a favorite royal dwelling during the 1500s, when land overseas was first granted, and it became customary to grant new overseas possessions from that manor.

(See Edward P. Cheyney, “The Manor of East Greenwich,” *The American Historical Review*, 11:1 [Oct. 1905], pp. 29–35.)

21. *Soccage* was a means of granting land that freed the grantee from knight’s service. The Lords Proprietors were required only to pay the King a kind of rent each year, not to perform any other special duties as would have been required under a feudal system.
22. A *mark* was “money of account,” used for large transactions. A mark was worth a two-thirds of a pound, but there was no coin minted in that value.
23. A religious festival held November 1.
24. The *royal seal* (today called the Great Seal of the Realm) is a wax seal by which a document could be made official without the personal signature of the king or queen. Wax is melted in a metal mold, then pressed into a figure that is attached by cord or ribbon to official documents. The design of the seal is chosen by each monarch and has usually included the image of the king or queen.

The Lords Proprietors could enact laws for Carolina “under their [own] seals,” which meant that the king did not have to approve the law before it went into effect.

25. Laws could be passed not only pertaining to the “publick state” — that is, to everyone’s interests — but also to the interests of a single person. Such laws might grant an individual special privileges, but the Lords Proprietors, like Parliament, could also enact *bills of attainder* that essentially declared a person guilty of some crime and punishing them without a trial. Bills of attainder were used in both England and the colonies in the 1600s and 1700s — usually to punish rebels or political enemies. The United States Constitution forbids both Congress and the states from passing bills of attainder.
26. Laws must be passed with the advice and assent of the “freemen of the province” or their representatives — meaning that the Lords Proprietors must share power with a legislative assembly.

But note the way this passage is worded — especially in the context of the rest of the charter. Power in England did not come from the people through Parliament but from the king, who granted his subjects the privilege of representation in Parliament.

In practice, if a king tried to infringe on those privileges, his subjects would revolt. Charles’ father, Charles I, had been executed after a civil war, and his brother James II would be deposed by Parliament in the “Glorious Revolution” of 1689. The reality of government in England was changing rapidly in the 1600s. But in legal principle, power came from the king, and that power — delegated to the Lords Proprietors — can be seen throughout the Charter of Carolina.

27. All persons in Carolina are subject to the laws enacted by the Lords Proprietors — including, interestingly, people sailing to and from Carolina!
28. Any punishment may be dictated and carried out by law, including capital punishment. There were many crimes for which a person could be executed in colonial America, including sodomy, adultery, and heresy. Enforcement of the death penalty declined in the colonies after 1700, though, and soon after the Revolution states began limiting it to cases of murder and treason.
29. This section empowers the Lords Proprietors to set up courts and enforce the law. A number of specific duties and offices are named, but the proprietors are free to do what they deem necessary.
30. Subjects of the king in Carolina must obey the laws of the province.
31. Here a few exceptions are made to the power granted the Lords Proprietors, but they are vague suggestions, not the kind of firm limits on power that would eventually be written into the United States Constitution. The laws must be “consonant to reason” — that is, rational — but whether any given law is rational is a matter of opinion. Laws must also be “agreeable to the laws and customs...of England,” but only “as near as may be conveniently.”

In theory, then, *any* law might be acceptable, so long as the free people of Carolina agreed to it through their representatives, although the king might at any time step in and declare a law not to be “consonant to reason.”

32. A *freeholder* is someone who holds his land outright, through purchase, or is by other means guaranteed to hold it for life. Only freeholders could vote in elections in England or in the colonies. Owning land meant that a man was worthy of voting; it also meant that he had a stake in the province and in its governance. This was an agricultural society, and people who did not own their own land were transient — they moved around a lot — and socially and economically unstable. Because they depended on someone else for their ability to earn a living, they might be dependent on that person politically, as well, and would therefore be untrustworthy as voters.

A few U.S. states removed property requirements from voting after the Revolution, but North Carolina kept that requirement until 1856. Today, it is established that every American can vote regardless of property or wealth. But the idea that property owners make better citizens still exists — for example, in federal policies designed to encourage homeownership.

33. This paragraph grants the Lords Proprietors the right to pass laws alone when the “assemblies of freeholders” are not available, and declares that those laws are as “inviolable” as any others, with the same exceptions that the laws should be consistent with English law and custom. Note, though, that the Lords Proprietors cannot by themselves pass bills of attainder — they cannot declare a person guilty of some crime or take his property without the consent of a legislature. This isn’t much of a limit on their power, but it means that the proprietors could not simply throw their enemies into prison.

“From time to time” suggests that this provision was designed mainly for emergencies — for example, if the colony was attacked when the legislature was not in session, the proprietors or their appointed governor could provide for the colony’s defense. But “for the better government of the people there abiding” suggests that the Proprietors might also step in and pass laws as they saw fit if they believed that the legislative assembly was not doing a good job of governing the colony.

34. “Salvages” is a seventeenth-century spelling of “savages” — that is, Indians. Scattered settlers would be open to attack by Indians, pirates, bandits, and perhaps even the Spanish, who controlled Florida. The best protection for settlers was to increase the population and to organize a government as quickly as possible.
35. To expressly permit subjects of the king of England to move to Carolina is another way of saying that Carolina is part of his realm, and that they would remain his subjects there.
36. These are feudal terms used to describe the relationship of a man to his lord or superior. A *liege* is someone who owes knightly allegiance to someone else or, confusingly, the person to whom allegiance is owed. In practical terms, the lieges of England in 1660 were its free citizens. A *denizen* was a foreigner who by taking an oath of allegiance to the king was permitted to own property in England. The terms are used here to make clear that regardless of their political status, settlers in Carolina will remain subjects of the king and will still have the rights and protection of his subjects in England.
37. Essentially, this paragraph says that settlers in Carolina can trade as freely as if they had stayed in England. No special trading privileges are granted; like everyone else, they are subject to the laws of the realm.

In fact, by 1660, there were already legal restrictions on colonial trade. Under the Navigation Act of 1660, all European goods bound for America had to be shipped through England or Wales first, so that taxes could be collected. Further restrictions would follow, and would be one of the causes of colonists’ irritation with England that would eventually lead to the Revolution.

38. The Feast of St. Michael, or Michaelmas, is held September 29.
39. Imports of these luxury goods were normally taxed, but as an incentive to early settlers, the taxes were suspended in Carolina for seven years. More importantly (as is mentioned later in the paragraph), there would be no customs duties (import taxes) collected on tools necessary for building homes and other structures.

40. Not only can the Lords Proprietors establish ports, but trade may take place *only* through the ports they establish. This restriction ensured that customs could be collected for the crown, and it also enabled the Lords Proprietors to collect customs duties of their own.
41. In addition to customs collected for the crown, the Lords Proprietors could set their own import and export duties with the consent of a legislative assembly. Despite this power, the Lords Proprietors did not begin collecting customs duties immediately. Keeping taxes low encouraged settlers, and it was some time before colonial government was well enough organized to collect taxes reliably.
42. The Lords Proprietors could dispense with their land as they saw fit. Essentially, this paragraph lists all the ways they could distribute land — all of which derive from the feudal system.

They could, first of all, sell parcels of land, in *fee simple*. A *fee* was not the money paid for the land but the land itself — specifically, a piece of inheritable land held in exchange for service to a lord. The holder of the land would pay a *quitrent*, an annual amount of money that freed him from other duties a knight would traditionally owe to a lord. The landholder could sell the land as he wished, and when he died, he could pass the land on to his “heirs or assigns.” (To *enfeoff* was to create this kind of property.) A *freeholder* was someone who held property in this way.

Note that the Lords Proprietors could sell or grant land “to such...persons as they shall think fit.” In principle, this does not just mean that the proprietors could grant land to anyone they wanted; it meant that they could grant land to anyone who was fit to own it — to anyone who could fulfill the various obligations of freeholding, including voting and military service.

According to the charter, the Lords Proprietors could also grant land under other arrangements. They could grant land in *fee tail* (here, “fee taylor”), which meant that the land could not be sold and could be inherited only by direct descendants of the landholder. *Tenure* for life meant that the landholder could remain on the land until his death, at which time his family would have to leave. (Some tenures were for multiple lives, meaning that one or more generation of the landholder’s descendants could remain on the land.)

The Lords Proprietors never granted land under any of the more restrictive feudal arrangements, though. Those arrangements were simply not practical for a completely new settlement. All land in North Carolina was granted in fee simple, which meant that land ownership in practice was essentially the same as it is today.

43. In this context, “meet” means suitable or proper.
44. A law of 1290 that established means by which land could be passed from one person to another. *Quia Emptores Terrarum* is Latin for “Because they are buyers of land.”
45. The Lords Proprietors could create new inherited ranks of nobility and grant them to settlers in Carolina. They could not confer titles such as duke and baron that were already in use in England, but they could create their own titles, which would be passed down from father to son just as existing titles were. Hereditary nobility were thought to make a society more stable and to prevent the common people from gaining too much power.

In 1669, the Fundamental Constitutions of Carolina established *landgraves* and *caziques* as new ranks of nobility, but they were never conferred on any settlers. The English already living in the sparsely settled woods of Carolina, as well as the many Europeans who would soon join them, showed no interest in becoming second-rate lords, and the idea of a hereditary nobility in North America simply never took off.

46. The Lords Proprietors have the power to build fortifications for defense — notice that towns and villages are listed as simply one kind of fortification, like a fortress or a castle. This might bring to mind walled cities, but in fact it was just easier for people to defend themselves against attack when they were concentrated in a town or village than when they were scattered over the countryside.
47. The Lords Proprietors have the authority not only to defend the colony, but also to attack enemies — to make war, in other words. Of course, they would not have been expected to start a war with Spain by attacking Florida, but they could launch what we would call a “pre-emptive strike” on Indians or pirates.
48. *Meet* here means “appropriate” or “suitable.”
49. To *incorporate* a town is to grant its residents special privileges of self-government. Today, a town may be incorporated under the authority of the state; under the Charter of Carolina, that authority came from the Lords Proprietors.
50. In addition to towns, the Lords Proprietors could create manors — parcels of land controlled by a lord and including one or more villages and smaller pieces of land held by its residents.

Manors were also expected to govern and defend themselves. The lord was bound to arrange for the defense of the manor, and its inhabitants performed work for the lord. The *frankpledge* bound a group of households together and made them responsible for one another’s conduct, and the *court leet* served to judge and punish small crimes committed on the manor.

The manor was part of the feudal system of the Middle Ages and developed before Europe had strong central governments, although manors existed in England into the twentieth century. In a new colony, it made sense to organize settlers into manors so that they could govern and defend themselves. But the colonists balked at the restrictions of the manorial system, and manors were never established in Carolina.

51. The Lords Proprietors could make war on any enemies — pirates and robbers, “savages” and “barbarous nations” of Indians, and “other enemies” — meaning, probably, the Spanish, should they try to expand northward from Florida. They could raise an army by requiring any men they chose to serve in it. They could pursue enemies out of the province, if necessary. In short, they had as much power to make war as a modern nation, although of course in practice they would have to stay within the king’s foreign policy — and with few settlers to make up an army, couldn’t do much more than basic self-defense anyway.
52. “Martial law” is the law by which order is kept in an army. Men who refuse to fight, for example — “loiterers and stragglers” — may be arrested and punished outside the normal legal system. Martial law here may be applied to any citizen who refuses fight in a time of war, or who is “mutinous” (disobeys orders or revolts against command) or “seditious” (speaks out against a war).
53. Anyone migrating to Carolina from another colony or nation will be subject to its laws immediately. Although the charter doesn’t explicitly mention people coming from other European nations, the phrase “subject to our crown of England” is clearly meant to include them. A German, for example, who moves to Carolina will be considered a subject of the King of England and a resident of Carolina.
54. Inhabitants of Carolina are not to be tried in criminal or civil courts anywhere but in Carolina or in England and Wales, no matter where they previously lived. A colonist from France, then, is

declared not only subject to the king and to the laws of Carolina and England, but also free of obligations to the French crown or to French law.

55. Here, Charles II empowers the Lords Proprietors to grant “indulgences” to Christians who do not belong to the Church of England. This means that the proprietors could allow as much religious freedom as they wished. (In fact, the Fundamental Constitutions of Carolina, written a few years later but never enforced, specifically encouraged Jews to emigrate to Carolina.)

England had seen civil war and unrest over religious matters for more than 100 years, particularly conflict between supporters of the Protestant Church of England (and especially the radical Puritans) and Catholics. By 1663 England was clearly a Protestant nation, but Charles II’s father, Charles I, had been a Catholic, and Charles II converted on his deathbed. Charles II, wanting to support Catholics and to avoid more unrest, favored religious freedom for all Christians, but Parliament, fearing the return of Catholic rule or rebellion by radical Protestants, did not. As a result, Catholics and members of Protestant sects other than the established Church of England were often persecuted.

Since Parliament did not have a say in the Charter of Carolina, Charles II was free to impose his own support of religious toleration. The Fundamental Constitutions of Carolina, written in 1669, permitted any person of any religion to reside in Carolina in peace, but required that only those who believed in God and were members of some kind of church could own land or have the protection of the law, and provided for taxes to support the Church of England.

56. Charles II had become king in 1660, when he was invited to return from exile in France. But he dates his reign from 1649, when his father, Charles I, was executed in the Puritan Revolution. A monarchist (believer in or supporter of the monarchy) would believe that once the king was dead, his son automatically and rightfully took his place, even if his subjects did not actually permit him to rule.
57. By the king himself; by royal authority.

About the author

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David Walbert is Editorial and Web Director for LEARN NC in the University of North Carolina at Chapel Hill School of Education. He is responsible for all of LEARN NC’s educational publications, oversees development of various web applications including LEARN NC’s website and content management systems, and is the organization’s primary web, information, and visual designer. He has worked with LEARN NC since August 1997.

David holds a Ph.D. in History from the University of North Carolina at Chapel Hill. He is the author of *Garden Spot: Lancaster County, the Old Order Amish, and the Selling of Rural America*, published in 2002 by Oxford University Press. With LEARN NC, he has written numerous articles for K–12 teachers on topics such as historical education, visual literacy, writing instruction, and technology integration.

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Figure 1 (page 2)

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