

DELAWARE: A GRANT YET NOT A GRANT

By BURTON ALVA KONKLE

The dramatic relations of Delaware—for that is what it was called in the Privy Council long before it acquired the name “Lower Counties” from Penn—has been presented by Judge Rodney; and it has been thought well to give in full the grant of part of it, by James II., which never became a grant. It was so interwoven with complications that this explanatory note is prefixed.

Penn’s part in the founding of West Jersey, whose settlers were made to pay duty by the Duke of York’s officers at New Castle, led him to determine to control the Delaware valley. His application for the west bank, begun in 1680, brought the Privy Council’s recognition of the Duke of York’s claim to the west bank, merely because, although the grant to him from the new conquest only extended to the Delaware river, he had annexed or assumed control of all above Virginia and Baltimore’s uncertain grant clear to New York. Because of the recognition of this claim by Privy Council (although the Duke’s lawyer, Werden, plainly asserted it to be but a claim), when Penn’s charter to “Pennsylvania” was granted on March 4, 1681, and various necessary measures for colonization were taken the rest of that year, and early in 1682, Penn followed the Privy Council’s suggestion, and before sailing, secured York’s quit-claim to “Pennsylvania” on August 21, 1682.

With his umpire-like position in West Jersey and possession of “Pennsylvania,” he utilized this occasion in an attempt to secure Delaware, also, which would give him and West Jersey control of the Dela-

ware valley. It took but three days; for on August 24th, the Duke gave Penn a 10,000-year lease, and a feoffment deed, to a twelve-mile circle about New Castle; but, for the territory from that circle's southernmost point to the cape, he was not quite so generous; for he made of it an equal partnership in returns—or, rather, an equal partnership in "claims" for returns. York's pretensions were nothing but claims, in law; although this stubborn short-sighted Stuart rested on his "claim" to the end as if solid as an American constitution. And he had good precedent for his position; for, with the general ignorance of American geography, even in highest government circles, he who could "claim" most tenaciously before a vulnerable Stuart, was often able to take a slice of a grant to some one else, as did Lord Baltimore, and as his friends claim Penn did from him.

Penn, however, was not only conscious of the mere "claim" character of York's titles on the west side of the river and bay of Delaware, but, in 1683, persuaded York to get a proper grant from the King, which he did, Penn paying the expense and receiving assurance from York that, when he became King he would give the territory below the New Castle circle wholly to Penn. Even then York stubbornly held that his deed of New Castle was sufficient, although Charles' grant of 1683 could not be retroactive. However, Penn was greatly beloved by his foster-father, York, and was diplomatic with the stubborn Stuart, as he was compelled to be everywhere in that upheaval period.

Two years later, on Charles' death on February 6, 1685, the Duke of York became King James II.; and, within a year, his autocratic purposes alarmed even William Penn. By July 15, 1686, Penn sent over to his new capital, "Philadelphia," his best lawyer, David Lloyd, a Welshman and cousin of Thomas Lloyd, to hold fast the legal side of the colony; and, in October made him Attorney General. In addition to that, Penn

wrote, anonymously, a most remarkable paper, and had it issued in Philadelphia early in 1687. It was entitled *The Excellent Privilege of Liberty and Property*, warning the colonists to stand firm for their rights. It expressed the ideas of the revolution then brewing against this charter-destroying Stuart king.

It was about this time that James II. gave Penn reassurance as to his own charter, by offering him a draft of a charter for Delaware, whose uncertain title was causing Penn great trouble in his efforts to bind "Pennsylvania" and Delaware, now coming to be called "Lower Counties," together. Penn must have stood aghast as he read its provisions enabling him to raise money without an Assembly!¹ In alarm Penn sought the advice and judgment of Lord Chancellor Jeffreys, who said it was contrary to English law. Penn of course dared not accept it, even though it showed James II.'s super-generous intentions toward his foster-son. He kept the draft, however, for years, and even brought it to America on his second visit; but he dared show it to nobody over here, not even Secretary Logan; although he did allow a delegation from the "Lower Counties" to see the one paragraph proof that James intended to make good his Delaware title, as Penn had promised them he would. This draft has never been found; and the extreme probability is that Penn destroyed it as not a safe paper to be found in his possession, in the future.

The year 1687 passed into the more fateful one of 1688, for Penn's royal foster-father, King James, on April 7th of that year, gave the famous commission to Governor Andros of New York which was like the one he had offered Penn, making him independent of Assemblies. Then began the final upheaval and, before the year closed, the stubborn Stuart read the hand-writing on the wall. He began preparations for the end,

¹ *David Lloyd and The First Half-Century of Pennsylvania*, by Burton Alva Konkle. The original manuscript, pp. 59-74.

and by December 10th, of that year, he had disposed of his family in safe places; and late at night bethought himself of his promise to his foster-son, Penn, about Delaware. He called in his legal counsel, Sir William Williams, and directed him to draw up such a charter as Penn wanted—one that would displace the old instruments. And at this point a strange thing occurs: whether, in his anxiety to make his escape from William III. and the Parliamentary armies, he forgot the New Castle 12-mile circle and his uncertain “claim,” under which he had deeded it to Penn in 1682; or whether, with stubborn tenacity he held that claim to have made his “gift” valid, the fact remains that he instructed Sir William Williams to make a charter for only that part between New Castle circle and the capes, annulling the partnership and granting it to Penn on practically the same basis as “Pennsylvania” had been given. Now, at last, it seemed as if, after Penn and Lord Jeffreys had saved the Delawareans from New York’s fate, they were to have as good a charter as the province above them. Penn knew this charter was ordered drawn, and his London secretary also knew it, and wrote the information to Attorney General David Lloyd. King James, at this midnight hour, probably the last thing he did, approved the draft and sent it to the engrossing office to be copied on parchment, ready for his signature. After waiting for its return as long as his own safety permitted, he felt compelled to seek escape by a secret passage to France,—and leave his grant to his foster-son unsigned. Penn never knew what became of the draft or whether it was intercepted before engrossment; and he had no copy of it. Attorney General Lloyd told Mr. Logan that it probably drifted into some hamper of old papers into the Hanaper office, where such papers were kept. Here it was found nearly sixty-five years later and copied by Attorney Paris in the great law-suit that settled the Penn-Baltimore controversy. The matter of this paper, according

to James Logan, was considered so important to the Parliamentary party that it was made a point in the Declaration of Right of 1689; and it is well known that the British Crown claimed title to all of Delaware after 1688, and compelled Penn to acknowledge the probable validity of that claim in every commission of a governor there that he was allowed to appoint. The result was that the title to Delaware was never fully settled until our revolution of 1776. This grant that never became a grant was copied, as has been said, and is now in the Penn Papers of The Historical Society of Pennsylvania; and is reproduced herewith below. So the rose at the Feast of St. Michael was never demanded nor paid.

DRAFT OF KING JAMES II.'S PROPOSED GRANT
OF
KENT AND SUSSEX COUNTIES, DELAWARE
TO
WILLIAM PENN
10 DECEMBER, 1688²

JAMES THE SECOND by the Grace of God, of England, Scotland, France & Ireland King Defender of the Faith &c. TO all to whom these p^resents shall come GREETING. KNOW YE That Whereas by Indenture of Bargain & Sale under our hand and Seal, bearing date the 24th day of Augt. in the 34th year of the Reigne of Our late Dear Brother King Charles the Second of ever Blessed Memory made between Us, by the name of James Duke of York and Albany, Earl of Ulster &c. of the one part, and Wm Penn Esq.^r Son & heir of Sr. Wm. Penn Knt. decd of the other part, Out of a Speciall regard to the Memory and many faithfull and eminent Services heretofore performed by the sd. Sr. Wm. Penn, to our dear Brother and Our Self, and for the good Will which We then had and bore to the sd. Wm. Penn, and for and in Consideracon of the sum of 10 d to Us in hand paid by the said Wm. Penn at and before the Ensealing and delivery of the said recited Ind^r. & of the Rent & Covenantants therein contained DID Bargain, Sell, Lett, and to Farm Sett unto the sd. Wm. Penn, ALL that Tract of Land upon Dellaware River & Bay beginning 12 Miles South from the Town of Newcastle, otherwise called Delaware and extending South to the Whore Kills, otherwise call'd Cap in Lopin, together with free and undisturb'd

² Penn MSS., Charters and Frame of Government, 1683-1696, pp. 11-19, in The Historical Society of Pennsylvania.

Use and Passage into and out of all Harbours, Bayes, Waters, Rivers, Isles and Inletts belonging to, or leading to the same, together with the Soil, Fields, Woods, Under-woods, Mountains, Hills, Fens, Isles, Lakes, Rivers, Rivulets, Bayes and Islets Scituate in or belonging unto the Limits and Bounds aforesd., Together with all Sorts of Mines and Mineralls, and all the Estate, Interests, Royalties, Franchises, Powers, Priviledges and Imunities whatsoever of Us therein, or in, or unto any part or pcell thereof Saving allwayes & Reserving therein unto Us, Our Agents and Servts. free use of all Ports, Wayes & Passages into through and out of the said Bargained p^rmisses and every part and pcell thereof, TO HAVE AND TO HOLD the said Tract of Land and all and Singular other the p^rmisses with the Appurtnces unto the sd. Wm. Penn his Excers. Admrs. & Assignes, from the day before the date of the sd. recited Indr. for the term of 10000 Years, from thence next ensuing, without Impeachment. of or for any maner of Wast, to be holden of Us and Our heires as of Our Castle of New York in free and comon Soccage; YEILDING & PAYING therefore yearly and every year to Us, Our heirs & Assignes one Rose at the Feast of St. Michael the ArchAngell yearly if demanded), AND the said Wm. Penn for himself his Excers. & Admrs. did thereby Covenant & Agree to and with Us, Our heirs and Assignes, that he the said Wm. Penn his heirs Executrs. Admrs. or Assignes should & would within the Space of One Year next ensuing, the date of the said recited Indr. erect or cause to be Erected and Sett up one or more Publick Office or Offices of Registry in or upon the said Bargain'd p^rmisses, wherein he or they or some of them, should and would amongst other things truly & faithfully Account sett down and Register all and all maner of Rents and other Profits, which he or they or any of them, should by any ways or means make, raise, gett or procure of, in, or out of the said Bargain'd p^rmisses or any part or pcell thereof, and should and would at the feast of St. Michael the Arch-Angell Yearly & every year during the Term thereby Granted well And truly Pay and deliver unto Us, Our heires or Assignes One full Moiety of all and all maner of Rents and Profits as well Ordinary as extraordinary. as should any way be made or raised upon or by reason of the said p^rmisses or any part thereof, AND that if it should happen, the same should be behind or unpaid in part or in all by the space of 20 days next after the same ought to be Yelld paid or deliver'd, that then and so often it should be lawfull to and for Us, Our heirs and Assignes to Enter in and upon the said p^rmisses or any part or pcell thereof, and there to distraine untill the said Moiety and Arrears thereof should be well and truly satisfy'd and paid, together with all Costs and damages for the same.

AND WHEREAS on or about the 13th day of Novr. in the year of our Lord 1685, upon the Peticon of Charles Lord Baltimore to Us in Councell, thereby Complaining that great part of the said Tract of Land intended to have been granted to the said Wm. Penn by Us as aforesaid was comprised within a former Grant made to Cecil Lord Baltimore and his heires Father of the said Charles Ld. Baltimore and

was thereby Granted to the said Cecil Ld. Baltimore and his heirs and was the Right and Inheritance of him the said Charles Ld. Baltimore, And upon a full hearing of the said Matters at Our Councill Board the bounds of the said Tract of Land at the desire and by the Consent of the said Charles Ld. Baltimore, were [torn] tered by the Order of Our Councill in maner and form following (Viz.) That the Tract of Land lying between the River and Bay of Delaware and the Eastern Sea on the one side and Che-asepeake Bay on the other side, should be divided into two equal parts by a Line from the Latitude of Cape Hin Lopen to the 40th degree of Northern Latitude, and that One half thereof lying towards the Bay of Delaware & The Eastern Sea should belong to Us and Our heirs, and that the other half should remain unto the said Ld. Baltimore and his heirs. NOW therefore forasmuch as great part of the said Tract of Land intended to have been granted by Us to the said Wm. Penn as aforesaid was and is thereby Waved and Yellded to the said Charles Ld. Baltemore; AND WHEREAS also by reason of the Claim of the sd. Cha: Ld. Baltemore in or to the said Tract of Land or part thereof intended to have been granted by us to the sd. Wm. Penn as aforesaid, and the disturbances given by him and his Agents to the sd. Wm. Penn and his Agents and Tenants ever since our sd. former Grant to the said Wm. Penn, he the sd. Wm. Penn was and hath been disabled from making any such Registry as aforesaid; & also from making, having or Receiving any Rents, Issues or Profits out of, or for the said Tract of Land so intended to have been granted by Us to him as aforesaid, and nevertheless the said Wm. Penn is or may be Subject or lyable to Account to Us for the Rents Issues or profits that might have been any way made or raised upon or by reason of the said Tract of Land intended to have been Granted by Us to him as aforesd., And the said Wm. Penn hath also as he doth humbly acknowledge (Supposing the said Tract of Land and pEmisses had past to him by the said Indr. according to such Our Intentions) made use of and Exercised prerogatives, Jurisdiecons and Powers within the said Tract of Land & p^r.misses which as he is now Advised he could not nor can Maintain or Justifie by Vertue of the sd. Indr. from Us or otherwise howsoever wherein he hath amongst other things according to his Judgement for the better Improvement of the said Tract of Land and PEmisses and also of his own Province of Pensilvania adjoining thereunto promoted a Generall Liberty of Conscience to all the Inhabitants therein, Least therefore the said Wm. Penn may hereafter be call'd in Qucon, or may have fallen within the reach of some of Our Laws or Statutes and be lyable to Prosecutions in Our Courts Ecclesiastl. or Temporall for such his Crimes or Offences.

WE DO therefore of Our especiall Grace and Favour to him the said Wm. Penn, and of Our Meer Mocon Remise and Release to him the said Wm. Penn his Execrs. and Admrs. the said Covenant of him the said Wm. Penn in the said recited Indentr. contained of and for his the said Wm. Penn Erecting such Registry in or upon the said Tract of Land or PEmises, and for his Regestering and Accounting for all and all maner of Rents and other Profits as well Ordinry. as Extra-

ordry. which should be raised or made upon or by reason of the said Bagained or intended to be Bargained pEmises or any part thereof, and of and from all and all manner of demands Aceon and Accons, Suit and Suits whatsoever, which I, my heires Assignes or Successors can, or may have take, or comence against him the said Wm. Penn his heirs Executrs. or Adminrs. in any Court or Cots. whatsoever for or by reason of the said Covent, or any Omission, Commission, neglect or Breach thereof by him the said Wm. Penn; AND WE do also for Us, Our heirs and Successors Pardon, Acquitt, Release and discharge the said Wm. Penn his heirs Execrs. and Admrs. and every of them of and from all and all maner of Treason, Felonys, Misprisions of Treason or Felony, and All maner of Misprisions, Trespasses and Offences whatsoever, and of and from all Forfeitures and Penalties for the said Offences, or any or either of them any Law or Statute to the contrary thereof in any wise notwithstanding. AND also in Consideracon of the said Great and faithfull Services done to Us and Our late dear Brother by the sd. Sr. Wm. Penn Father of the said Wm. Penn and of the Sum of Tenn Shill. lawfull money of England to Us in hand paid by the said Wm. Penn, WE do hereby give and Grant to the said Wm. Penn and his heirs ALL that Moiety of the said Tract of Land between the said Eastern Sea, River and Bay of Delaware and Cheaspeake Bay, which lyes towards the said River and Bay of Delaware, and the said Eastern Sea, as the same is or may be divided by a Line from the Latitude of Cape Hin Lopin to the 40th degree of Northern Latitude from the other Moiety lying towards the said Bay of Delaware, And all Forts, Townes & Villages therein or thereupon, and free and undesturbed Use and passage into and out of all Harbours, Bays, Waters, Rivers, Isles & Inlets belonging to or leading to the same, or any parts thereof, together with the Soil, Fields, Woods, Under-Woods, Mountains, Hills, Fens, Isles, Lakes, Rivers, Rivuletts, Bays and Inletts, scituate in and belonging to the limitts and Bounds afore sd. and all Islands therein, and the Soyle of all and Singular the said PEMises, together with the Fishing for all Sorts of Royall and other Fish, and all sorts of Mines and Minerals as well Royall as other Mines, and all other our Estate Interest Royalties, Franchises Powers, Priviledges and Imunities whatsoever, or in or unto any parts or parcell thereof, And him the said Wm. Penn his Heires and Assignes WE do by this Our Royall Charter for Us, Our heires and Successors make, Creat and Constitute the true and Absolute Proprietor of the Country aforesaid, and of all other PEMisses, Saving allways the Faith and Allegiance and the Sovereigne Dominion due unto Us, Our heirs and Successors; TO HAVE AND TO HOLD, the said Tract of Land Country, Forts, Townes, Villages, Soyle, Rivers Bayes, Islands and all and Singular other the PEMisses with their and every of their Appurtnces unto the said Wm. Penn his heirs and Assignes to the onely proper use and behoofe of the said Wm. Penn his heirs and Assignes for Ever, to be holden of Us Our heirs & Successors Kings of England, as of Our Castle of New Windsor in Our County of Berks in England, in free and comon Soccage by Fealty onely for all Services, and not in Capite or by

Knights Service, YEILDING AND PAYING therefore to Us, Our heirs and Successors, one Bever Skin to be delivered at Our said Castle of New Windsor on the 1st day of Janry. in every year (if demanded) AND of Our further Grace certain knowledge and meer Mocon, We have thought fit to Erect and do hereby Erect the aforesaid Country and Islands into a Province and Signiory and do call it the Lower Pensilvania, and so from hencefeorth We will have it Called, And forasmuch as We have thereby made and Ordained the aforesaid Wm. Penn his heires and Assignes the true and absolute Proprietors of all the Lands and Dominions aforesaid, KNOW YE therefore That We Reposing especiall Trust and Confidence in the Fidelity Wisdom Justice and provident Circumspection of the said Wm. Penn, For Us, Our heirs and Successors do Grant free full and Absolute Power by Vertue of these p^{re}sents to him & his heirs and to his and their Deputies and Lieuts. for the good and happy Government of the said Countries to Ordain, make enact and under his and their Seals to publish any Laws whatsoever for the raising of money for the Publick use of the said Tract of Land or Province, or otherwise appertaining either unto the Publick State, Peace or Safety of the said Country or unto the private Utility of particular persons according unto their best discretions, of and with the Advice Assent and Approbacon of the Freemen of the said Country, or the greater part of them, or of their Deputies or Delagates whom for the Enacting of the said Laws when and as often as need shall require, We will that the said Wm. Penn and his heirs shall Assemblè in such sort and form as to him and them shall seem best, and the same Laws duely to Execute unto and upon all People within the air Countryes and Limitts thereof, So as a true Transcript or Duplicate of the said Laws so as aforesaid to be made, shall be transmitted and delivered to the Privy Council of Our Kingdom of England for the time being, with all convenient Speed or at least within 5 Years after the making of the said Laws respectively, which said Laws shall be and remain in Force according to the true intent and meaning thereof, unless Our self, Our heirs or Successors within 6 months after yt the said Laws shall be so transmitted & delivered as aforesaid, shall declare the same to be Null And Void under Our or their Sign Manual or Privy Seal, And We do likewise give and grant unto the sd. Wm. Penn and to his heirs and their Deputies and Lieutts. full power and Authority to appoint and Establish any Judges and Justices, Magistrates and Officers whatsoever for what causes soever for the Probate of Wills and for the Granting Administracons and likewise for all Admirall Jurisdiceon and with what Legall Power soever, and in such Form as to the said Wm. Penn or his heirs shall seem most convenient, also to remitt release, pardon and Abolish whether before Judgement or after, all Crimes and Offences whatsoever comitted within the said Tract of Land and Country against the said Laws Treason onely Excepted, and in that Case to Grant Repreivs untill Our pleasure may be known therein, and to do all and every other thing and things which unto the Compleat Establishment of Justice unto Courts & Tribunals forms of Judicature and maners of pro-

ceedings do belong, altho in these presents express mention be not made thereof, and by Judges by him and them deligated to award process, hold pleas and determine in all the said Courts and Tribunalls, all Accons Suits and Causes whatsoever as well Criminall as Civill personall, real & mixt, Which Laws so as aforesd. to be published, Our Pleasure is, and so We Enjoyne, Require and Command, shall be most Absolute and Available in Law and that all the Leige people and Subjects of Us, Our heirs & Successors do observe and keep the same inviolably in those parts, so farr as they concern them under the Pain therein Express'd or to be Expressed, PROVIDED nevertheless That the said Laws be consonant to Reason and be not repugnant or contrary, but as neere as conveniently may be agreeable to the Laws Statutes and Rights of this Our Kingdom of England, and Saving and Reserving to Us Our heires and Successors the receiving hearing and determining of the Appeal & Appeals of all or any Person or Persons of in, or belonging to the Territories aforesaid touching any Judgement to be there made or given. AND FORASMUCH as in the Governmt. of such a Country sudden Accidents do often happen whereunto it will be necessary to apply a Remedy before the Freeholders of the said Province or their Deligates or Deputies can be Assembled to the making Lawes, neither will it be convenient that instantly upon every such emergent Occasion so great a Multitude should be called together, Therefore for the better Government of the said Tract of Land or Country, We Will and Ordain, and by these p^sents for Us, Our heirs and Successors, do grant unto the said Wm. Penn and his heirs by themselves or by their Magistrates and Officers in that behalf duely to be Ordained as aforesd. to make and Constitute fitt and Wholsom Ordinances from time to time within the said Tract of Land or Country to be kept and Observed as well for the preservacon of the peace as for the better Government of the People there Inhabiting and Publickly to Notifie the same to all Persons whom the same doth, or any way may concern, which Ordinances, Our Will and Pleasure is, shall be Observed inviolably within the said Province under Pains therein to be Expressed, so as the Ordinances be Consonant to Reason and be not Repugnant nor contrary, but so far as conveniently may be agreeable with the Laws of our Kingdom of England, and so as the said Ordinances be not extended in any sort to Bind, Charge or take away the Right or Interest of any Person or Persons of, or in their Life, Member, Freehold, Goods or Chattells, AND Our further Will & pleasure is, that the Laws for Regulating and Governing of property, within the said Tract of Land, or province, as well for the descent and Enjoyment of Lands, as likewise for the Enjoymt. and possession of Goods and Chattells, and likewise as to Treasons and Felonys and other Offences, shall be and continue the same as they shall be for the time being by the Generall course of the Law in Our Kingdom of England, untill the Laws shall be alter'd by the said Wm. Penn, his heires and Assignes and by the Freemen of the said Tract of Land or Province their Delegates or Deputies or the greater part of them, FURTHERMORE that this New Colony may the more hapily encrease by the multitude of

people resorting thither, We for Us, Our heirs & Successors, do give and Grant by these p^sents power Licence and Liberty unto all the Leige People and Subjects both present and future of Us, Our heires and Successors (Excepting those who shall be specially forbidden) to Transport themselves and Familys unto the said Country with such convenient Shipping as by the Laws of this Our Kingdom of England, they ought to use, and with fitting provisions, paying onely the Customs thereof due, and there to Settle themselves, dwell and Inhabit, and plant for the publick and their owne private advantage; AND FURTHERMORE that Our Subjects may be the rather Encouraged To Undertake this Expedition with a ready and Cheerful minds KNOW YE that We of Our Special Grace, certain knowledge and Meer Motion do Give and Grant by vertue of these p^sents, as well unto the said Wm. Penn and his heirs, as to all others who shall from time to time repair unto the said Tract of Land or Country with a purpose to Inhabit there or to Trade with the Natives of the said Tract of Land or Country, full Licence to laid or Freight in any ports whatsoever of Us, Our heires and Successors and into the said Tract of Land or Country by them their Servants or Agents to Transport all and Singular their Goods, Wares and Merchandizes as likewise all sorts of Grain whatsoever and all other things whatsoever necessary for food, or Cloathing not prohibited by the Laws and Statutes of Our Kingdom and Dominions, to be carryed out of the said Kingdoms without any lett or molestacon of Us, Our heirs or Successors, or of any of the Officers of Us, Our heirs or Successors. (Saving allways to Us Our heirs and Successors the legall-Imposicons, Customs, and other Duties and payments for the said Wares & Merchandize by any Law or Statute due or to be due to Us, Our heires and Successors) And We do further for Us, Our heires and Successors, Give and Grant unto the said Wm. Penn his heirs and Assignes, free and Absolute Power to divide the said Country and Island into Townes, hundreds and Counties, and to Erect and Incorporate Town's into Burroughs and Burroughs into Cities and to make and Constitute Fairs and Marketts therein, with all other convenient Priviledges and Imunities according to the Merritt of the Inhabts. and the fitness of the places, and to do all and every other thing and things touching the Premisses which to him or them shall seem meet and Requisite, Albeit they be such as of their own nature might otherwise require a more special Comandment than in these presents is exprest, We Will also, and by these p^sents for Us, Our heirs and Successors We do give and Grant License by this Our Charter unto the said Wm. Penn his heirs & Assignes and to all the Inhabitants and Dwellers in the Tract of Land or province aforesaid both present and to Come, to import or unlade by themselves or their Servants, Factors or Assignes all Merchandizes and Goods whatsoever that shall arise of the Fruits and Comodity's of the said Tract of Land or Province either by Land or Sea into any of the Parts of Us, Our heirs and Successors in Our Kingdom of England, or otherwise to dispose of the said Goods in the said Ports, and if need be within One Year next after the unlading of the same to laid the said Goods

and Merchandizes again into the same or other Ships and to export the same into any other Countries either of Our Dominions or Foreign according to Law, PROVIDED allways that they pay such Customs and Imposicons, Subsidies and Dutys for the same to Us, Our heirs and Succesors, as the rest of Our Subjects of the Kingdome of England for the time being shall be bound to pay, and do Observe the Acts of Navigation & other Laws in that behalf made; AND FURTHER-MORE of Our more ample and Speciall Grace, certain knowledge and Meer Mocon, We do for Us, Our heires and Successors Grant unto the said Wm. Penn his heirs and Assignes full and Absolute Power and Authority to make Erect and Constitute within the said Tract of Land or province and the Isles and Inlets aforesaid, such and so many Sea-Ports, Harbours, Creeks, havens, Keys & other Places for discharge and lading of Goods and Merchandizes out of Ships Boats and other Vessells and lading them and in such and so many Places, and with such Rights, Jurisdiccions, Liberties and Priviledges unto the said Ports belonging as to him or them shall seem most expedient, And that all and Singular the Ships, Boats and other Vessels which shall come for Merchandize and Trade unto the said Tract of Land or Province, or out of the same shall depart, shall be laden and unladen onely at such ports as shall be soe Erected and Constituted by the said Wm. Penn his heirs or Assignes any use Custom or other thing to the contrary notwithstanding PROVIDED that the said Wm. Penn and his Heires and the Lieutents. and the Governr. for the time being shall admitt and receive in and about all such Ports, Havens, Creeks and Keys all Officers and their Deputies who shall from time to time be appointed for that purpose by the Farmers or Commrs. of our Custome for the time being; And We do further Appoint and Ordain, and by these presents for Us, Our heirs and Successors We do Grant unto the said Wm. Penn his heirs or Assignes, that he the said Wm. Penn his heirs and Assignes may from time to time for Ever have and enjoy the Customes and Subsidies in the Ports Harbours and other Creeks and Places aforesaid within the Tract of Land or Province aforesaid payable and due for Merchandizes and Wares there to be laded and unladed, the said Custom's and Subsidies to be reasonably Assessed (Upon any Occasion) by themselves & the people there as aforesaid to be Assembled, to whom We give power by these presents for Us, Our heirs and Successors upon just Cause and in a due proporcon to Assess and impose the same, Saving unto Us, Our heirs and Successors such Imposicons and Customs as by Act of Parliament are or shall be appointed PROVIDED always, and Our Will and Pleasure is, that neither the said Wm. Penn nor his heirs nor any other the Inhabitants of the said Province shall at any time hereafter Trade or Maintain any Commerce to, or with any other King, Prince or State in Europe who shall then be in Warr against Us, Our heirs or Successors, Nor shall the said Wm. Penn or his heirs or any other the Inhabitants of the said Province, make or doe any Act of hostility against any other King, Prince or State in Europe who shall be then in League or Amity with Us, Our heirs or Successors, but that it shall and may be lawfull to and for the said Wm. Penn and his heirs by themselves or their Officers to make War and pursue the Indians or other Enemies in or neer the said Tract of Land or Province aswell by Land as by Sea and to doe every other thing which belongeth to the Office of a Capt'n. Generall of an Army and it is Our Will and Pleasure and We do therefore, hereby Give Grant and Order, if it be found convenient by the said Wm. Penn his heires or Assignes for the In-

habitants of this Tract of Land or Province hereby Granted by Us to the said Wm. Penn and his heires called the lower Pensilvania and of the Tract of Land or Province heretofore Granted by Our late Dear Brother King Charles the Second to the said Wm. Penn and his heires called Pensilvania to be United and to have but one Assembly and the same Laws and Ordinances for both, That the said two Provinces shall be United into one as to the Government of them, and if the Laws of England and of the said Province of Pensilvania will admitt thereof, that there shall be but one Assembly of the Freeholders of both the said Provinces for the making of Laws for the same, and that the Laws so made shall be in force in both the said Provinces and every part thereof, And that the said Wm. Penn his heirs and Assignes shall have like and equall Interest Authority and Power in all the said Tract of Land and Provinces. AND FURTHERMORE of Our Speciall Grace and of Our certain knowledge and meer mocon, We have given and Granted by these pEsents for Us, Our heirs & Successors doe give and Grant unto the said Wm. Penn his heirs and Assignes full and Absolute power, Licence and Authority, that the said Wm. Penn his heires and Assignes from time to time hereafter for ever at his or their Wills or Pleasure, may Assigne, Alien, Grant, demise or enfeoffe of the pEmisses, so many and such parts and parcells to him or them that shall be willing to purchase the same as they shall think fitt TO HAVE AND TO HOLD to them the Said Person or Persons willing to take or purchase the same to them their heires and Assignes in Fee Simple or Fee tail, or for term of Life or Lives or Years, To be held of the said Wm. Penn his heires and Assignes as of the Signiory of Newcastle by such Services Customes and Rents as shall seem fitt to the said Wm. Penn his heirs and Assignes, and not imediately 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 pEsents for Us, Our heirs and Successors Licence and Authority and power that such person or persons may take the pEmisses or any part or parcell thereof of the aforesd. Wm. Penn his heirs and Assignes and the same hold to themselves their heirs and Assignes in what Estate of Inheritance Soever in Fee Simple or Fee tail or otherwise as to them and the said Wm. Penn his heires and Assignes shall seem expedient, the Statute made in the Parliamt. of Edward Son of King Henry late King of England Our predecessrs. comonly called the Statute QUIA EMPTORES TERRARUM Publish'd in Our Kingdome of England in any wise notwithstanding, and by these pEsents We give and Grant Licence unto the said Wm. Penn and his heires, and likewise to all and every such Person and Persons to whom the said Wm. Penn or his heirs shall at any time hereafter grant any Estate of the Inheritance aforesaid, to Erect any parcell of Land within the Province aforesaid into Mannors by and with Licence to be first had and obtained for that purpose under the hand and seal of the said Wm. Penn or his heires, 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 for the conservation of the Peace and better Government of those parts by themselves or their Stewards, or by the Lord's for the time being of other Mannors to be deputed when they shall be Erected, and in the same to use all things belonging to the Vicio of Frank Pledge. And we do further Grant Licence and Authority that every such Person and Persons, who shall erect any such Mannr. or Manors as aforesaid shall or may Grant all or any part of his said

Lands to any pSon or pSons in Fee Simple or any other Estate of Inheritance to be held of the said Manors respectively, so as no further Tenures shall be created, but that upon all further and other alienacons thereafter to be made, the said Lands So Alienated shall be held for the same Lord and his heires of whom the Alienor did then before hold and by the like Rents and Services which were before due and Accustomed, Our further Pleasure is, and by these pSents for Us Our heirs and Successors We do Covenant and Grant to and with the said William Penn his heirs and Assignes, That We our heirs and Successors shall at no time hereafter sett or make, or cause to be sett, and Imposicon, Custome or other Taxacon Rate or Contribucon whatsoever in and upon the Dwellers and Inhabitants of the aforesaid Tract of Land or Province for their Lands Tenements, Goods or Chattells within the said Province or in or upon any Goods or Merchandize within the said Province laden or to Be laden and unladen within the Ports or harbour of the said Province, unless the same be with the Consent of the proprietor or Chief Governr. and Assembly of and for the said Province, or by an Act of parliament in England, And Our pleasure is, and for Us, Our heirs and Successors, We Charge and Command, that this Our Charter shall from henceforward from time to time be received and allowed in all Our Courts, and before all the Judges of Us, Our heirs and Successors for a Sufficient and lawfull discharge payment and Acquittance. Comanding all and singular Our Officers and Ministers of Us, Our heirs and Successors, and enjoying them upon pain of Our high displeasure that they do not presume at any time to attempt any thing to the contrary of the pEmisses, or that they do in any sort withstand the same, but that they be at all times Aiding and Assisting as 'tis fitting unto the said Wm. Penn and his heirs and to the Inhabitants and Merchants of the said Tract of Land or Province aforesaid, their Severall Ministers Factors and Assignes in the full use and Fruition of the Benefit of this Our Charter, And Our further Pleasure is and We do hereby for Us, Our heires and Successors, Charge and Require, that if any of the Inhabitants of the said province to the number of Twenty shall at any time hereafter be desirous and shall signify such their desire to the Bishp. of London for the time being, that any Preacher may be sent unto them for their Instruction, to be approved by the said Bishp. of London, that then such preacher shall and may be & reside Within the said Province without any denial or molestacon whatsoever, And if perchance hereafter it should happen, that any doubts or Questions should arise concerning the true Sence or meaning of any Word Clause or Sentence contained in this Our present Charter Wee Will Ordain and Command that at all times and in all things such Interpretacon be made thereof and Allowed in any of Our Courts whatsoever as shall be adjudged most advantageous and favourable unto the said Wm. Penn, his heires and Assignes PROVIDED always that no Interpretacon be admitted thereof by which the Allegiance due unto Us Our heires and Successors may suffer any prejudice or dimin although express mention be not made in these presents of the true Yearly Value or Certainty of the pEmises or of any part thereof or of other Gifts and Grants made by Us Our heirs and predecessours unto the said Wm. penn or any Statute, Act, Ordinance, Provision, proclamacon or Restraine heretofore had [torn] Published, Ordained or provided or any oth [torn] thing Cause or matter whatsoever to the contrary hereof in any wise notwithstanding.*

* In Sir W. Williams' draft, note to the King, he says the land is "in or near Pennsylvia."