DOCUMENTS

ILLUSTRATING

THE DOCTRINE OF DISCOVERY

Arranged for a Course at Mid Coast Senior College

Spring 2020
INTRODUCTION

This first set of readings represents only the tip of the iceberg!

The concept of the Doctrine of Discovery emerged from a Papal decree of 1452 and in 2020 is being hotly debated today at the United Nations. It is at the heart of the struggle by indigenous people around the world, and will be the major issue that governs our study of the history of the Kennebec.

It’s as old as America, and as current as today. The Maine State Legislature is dealing with it this session as are Maine’s newcomers “from away.”

Welcome to “Exploring the Mind of the Kennebec: An Intellectual History.”

Don’t let the density of these first ancient texts bother you!

After all, you’re part of the computer generation and know how to browse and skim read for what’s really important. We’ll sort them out together

The words in these documents have affected millions of people
DOCUMENTS ILLUSTRATING
THE DOCTRINE OF DISCOVERY

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The Text of Dum Diversas 1452

by Jim Morgan

Bishop Nicholas Sedrvant of the Servants of God.

For the perpetual memory of this act:

To the dearest son in Christ Alfonse, illustrious King of Portugal and the Algarbians, Greetings and Apostolic Blessing

While we turn over in our mind the diverse concerns of the office of Apostolic service entrusted to us (although we do not deserve it) by celestial Providence, concerns by which we are every day urgently pressed, we are also moved by a persistent encouragement: we chiefly carry in our heart that the well-known anxiety, that the rage of the enemies of the name of Christ, always aggressive in contempt of the orthodox faith, could be restrained by the faithful of Christ and be subjugated to the Christian religion. To this purpose also, when the occasion of the matter demands it, we laboriously expend our free desire, and indeed remember to follow with fatherly affection all the faithful of Christ, especially dearest sons in Christ, illustrious Kings, professing Christ’s faith, who, for the glory of the Eternal King, eagerly defend the faith itself and with powerful arm fight its enemies. We also look attentively to labor at the defense and growing of the said Religion and all things pertaining to this healing work, should proceed from our undeserved provision, we invite, with spiritual duties and grace, the faithful of Christ and also individuals to rouse their positions in help/support of the faith.

1. As we indeed understand from your pious and Christian desire, you intend to subjugate the enemies of Christ, namely the Saracens, and bring them back, with powerful arm, to the faith of Christ, if the authority of Apostolic See supported you in this. Therefore we consider, that those rising against the Catholic faith and struggling to extinguish Christian Religion must be resisted by the faithful of Christ with courage and firmness, so that the faithful themselves, inflamed by the ardor of faith and armed with courage to be able to hate their intention, not only to go against the intention, if they prevent unjust attempts of force, but with the help of God whose soldiers they are, stop the endeavors of the faithless, we, fortified with divine love, summoned by the charity of Christians and bound by the duty of our pastoral office, which concerns the integrity and spread of faith for which Christ our God shed his blood, wishing to encourage the vigor of the faithful and Your Royal Majesty in the most sacred intention of this kind, we grant to you full and free power, through the Apostolic authority by this edict, to invade, conquer,
fight, subjugate the Saracens and pagans, and other infidels and other enemies of Christ, and wherever established their Kingdoms, Duchies, Royal Palaces, Principalities and other dominions, lands, places, estates, camps and any other possessions, mobile and immobile goods found in all these places and held in whatever name, and held and possessed by the same Saracens, Pagans, infidels, and the enemies of Christ, also realms, duchies, royal palaces, principalities and other dominions, lands, places, estates, camps, possessions of the king or prince or of the kings or princes, and to lead their persons in perpetual servitude, and to apply and appropriate realms, duchies, royal palaces, principalities and other dominions, possessions and goods of this kind to you and your use and your successors the Kings of Portugal.

We carefully ask, require, and encourage your same Royal Majesty, girded by the sword of virtue and fortified with strong courage, for the increase of the divine name and for the exaltation of faith and for the salvation of your soul, having God before your eyes, may you increase in this undertaking the power of your virtue so that the Catholic faith may, through your Royal Majesty, against the enemies of Christ, bring back triumph and that you earn more fully the crown of eternal glory, for which you must fight in lands, and which God promised to those who love Him, and our benediction of the See and grace.

2. For we, by the dignity of your sacrifice, grant that you undertake this work with more courage and fervent zeal, together with chosen sons, noblemen, dukes, princes, barons, soldiers, and other faithful of Christ, accompanying your Royal Serenity in this fight of faith, or contributing with their means, and that they undertake or contribute from their possession, or send, as said before, from which you and they hope to be able to pursue the salvation of their souls, and they hope, by the mercy of omnipotent God, and his apostles the blessed Peter and Paul, entrusted with authority, to you and indeed all individual faithful of Christ of either sex accompanying your Majesty in this work of faith. Indeed to those who did not want to accompany you personally, but will send help according to their means or exigency of allegiance, or they will reasonably contribute from those possessions assigned by God, we grant, by the power of your sacrifice, a plenary forgiveness of all and individual sins, crimes, trespasses, and digressions which you and they have confessed with contrite heart and by mouth, to you and to those who accompany you, as often as you and they happen to go into any war against the mentioned infidels, and indeed to those who do not accompany you but are sending and contributing, as mentioned before, to those who persist in sincerity of faith, in the unity of the Holy Roman Church, by our obedience and devotion and of our successors Roman Pontiffs entering canonically, to the remaining a suitable confessor whom you and anyone of them selected can forgive merely once at the moment of death. Thus, however, the confessor sees to matters in which there is an obligation to a third party and that you, those who accompany you, who send and contribute fulfill it if you and they survive or your heirs and their heirs if you and they perish, as mentioned before.
3. And nevertheless, if it should happen that you or others of those accompanying you against the Saracens and other infidels of this kind, on the way there, staying there, or on the way back, departed from this world, we restore you and those accompanying you, remaining in sincerity and unity, through the present letter, to pure innocence in which you and they existed after baptism.

4. But we demand that all and each thing which the faithful of Christ, who do not accompany you, contributed for your support to carry out this undertaking, be taken by the noblemen of individual places in which these contributions were given and as time permits at once be repaid and given to you through secure messengers, or letters of the bank, without any reduction, expenses, and salaries, merely reasonably reserved for those working in this undertaking, and that they are transmitted under authentic sum-total, and that if the noblemen themselves, or anybody else deducted, or transferred or seized for his own use from the sum sent for support of this undertaking anything except expenses and salaries, or if they allowed or conspired for money to be either fraudulently or deceitfully subtracted, transferred or seized, that they incur eo ipso the sentence of excommunication, from which they cannot be absolved except by the office of the Roman Pontificate if they are in articulo mortis (at the moment of death).

5. For the rest, since it would be difficult to carry this present letter to individual places where perhaps it would be doubted about its credibility, we want and decree with authority that to its transfer signed by the hand of Notary public and provided with seal of a bishop or High Court, same credibility is shown, as if the original letter were presented or shown.

6. Consequently, it is not allowed to any person to infringe this sheet of our granting, pardon, will, indulgence, and decree, or dare to oppose it rashly. If, however, anyone tried to tamper with it, he would incur the indignation of the Omnipotent God, and of blessed Apostles Peter and Paul.

Given in Rome at St. Peter, in the year of the Incarnation of the Lord 1452 on June 18th, in the sixth year of our Pontificate.

https://jimmorgan.wordpress.com/2012/06/07/the-text-of-dum-diversas/
The Bull Romanus Pontifex (Nicholas V) January 8, 1454

"Nicholas, bishop, servant of the servants of God. for a perpetual remembrance.

The Roman pontiff, successor of the key-bearer of the heavenly kingdom and vicar of Jesus Christ, contemplating with a father's mind all the several climes of the world and the characteristics of all the nations dwelling in them and seeking and desiring the salvation of all, wholesomely ordains and disposes upon careful deliberation those things which he sees will be agreeable to the Divine Majesty and by which he may bring the sheep entrusted to him by God into the single divine fold, and may acquire for them the reward of eternal felicity, and obtain pardon for their souls. This we believe will more certainly come to pass, through the aid of the Lord, if we bestow suitable favors and special graces on those Catholic kings and princes, who, like athletes and intrepid champions of the Christian faith, as we know by the evidence of facts, not only restrain the savage excesses of the Saracens and of other infidels, enemies of the Christian name, but also for the defense and increase of the faith vanquish them and their kingdoms and habitations, though situated in the remotest parts unknown to us, and subject them to their own temporal dominion, sparing no labor and expense, in order that those kings and princes, relieved of all obstacles, may be the more animated to the prosecution of so salutary and laudable a work.

We have lately heard, not without great joy and gratification, how our beloved son, the noble personage Henry, infante of Portugal, uncle of our most dear son in Christ, the illustrious Alfonso, king of the kingdoms of Portugal and Algarve, treading in the footsteps of John, of famous memory, king of the said kingdoms, his father, and greatly inflamed with zeal for the salvation of souls and with fervor of faith, as a Catholic and true soldier of Christ, the Creator of all things, and a most active and courageous defender and intrepid champion of the faith in Him, has aspired from his early youth with his utmost might to cause the most glorious name of the said Creator to be published, extolled, and revered throughout the whole world, even in the most remote and undiscovered places, and also to bring into the bosom of his faith the perfidious enemies of him and of the life-giving Cross by which we have been redeemed, namely the Saracens and all other infidels whatsoever, [and how] after the city of Ceuta, situated in Africa, had been subdued by the said King John to his dominion, and after many wars had been waged, sometimes in person, by the said infante, although in the name of the said King John, against the enemies and infidels aforesaid, not without the greatest labors and expense, and with dangers and loss of life and property, and the slaughter of very many of their natural subjects, the said infante being neither enfeebled nor terrified by so many and great labors, dangers, and losses, but growing daily more and more zealous in prosecuting this his so laudable and pious purpose, has peopled with orthodox Christians certain solitary islands in the ocean sea, and has caused churches and other pious places to be there founded and built, in which divine service is celebrated. Also by the laudable endeavor and industry of the said infante, very many inhabitants or dwellers in divers islands situated in the said sea, coming to the knowledge of the true God, have received holy baptism, to the praise and glory of God, the salvation of the souls of many, the propagation also of the orthodox faith, and the increase of divine worship.

Moreover, since, some time ago, it had come to the knowledge of the said infante that never, or at least not within the memory of men, had it been customary to sail on this ocean sea toward the
southern and eastern shores, and that it was so unknown to us westerners that we had no certain knowledge of the peoples of those parts, believing that he would best perform his duty to God in this matter, if by his effort and industry that sea might become navigable as far as to the Indians who are said to worship the name of Christ, and that thus he might be able to enter into relation with them, and to incite them to aid the Christians against the Saracens and other such enemies of the faith, and might also be able forthwith to subdue certain gentile or pagan peoples, living between, who are entirely free from infection by the sect of the most impious Mahomet, and to preach and cause to be preached to them the unknown but most sacred name of Christ, strengthened, however, always by the royal authority, he has not ceased for twenty-five years past to send almost yearly an army of the peoples of the said kingdoms with the greatest labor, danger, and expense, in very swift ships called caravels, to explore the sea and coast lands toward the south and the Antarctic pole. And so it came to pass that when a number of ships of this kind had explored and taken possession of very many harbors, islands, and seas, they at length came to the province of Guinea, and having taken possession of some islands and harbors and the sea adjacent to that province, sailing farther they came to the mouth of a certain great river commonly supposed to be the Nile, and war was waged for some years against the peoples of those parts in the name of the said King Alfonso and of the infante, and in it very many islands in that neighborhood were subdued and peacefully possessed, as they are still possessed together with the adjacent sea. Thence also many Guineamen and other negroes, taken by force, and some by barter of unprohibited articles, or by other lawful contract of purchase, have been sent to the said kingdoms. A large number of these have been converted to the Catholic faith, and it is hoped, by the help of divine mercy, that if such progress be continued with them, either those peoples will be converted to the faith or at least the souls of many of them will be gained for Christ.

But since, as we are informed, although the king and infante aforesaid (who with so many and so great dangers, labors, and expenses, and also with loss of so many natives of their said kingdoms, very many of whom have perished in those expeditions, depending only upon the aid of those natives, have caused those provinces to be explored and have acquired and possessed such harbors, islands, and seas, as aforesaid, as the true lords of them), fearing lest strangers induced by covetousness should sail to those parts, and desiring to usurp to themselves the perfection, fruit, and praise of this work, or at least to hinder it, should therefore, either for the sake of gain or through malice, carry or transmit iron, arms, wood used for construction, and other things and goods prohibited to be carried to infidels or should teach those infidels the art of navigation, whereby they would become more powerful and obstinate enemies to the king and infante, and the prosecution of this enterprise would either be hindered, or would perhaps entirely fail, not without great offense to God and great reproach to all Christianity, to prevent this and to conserve their right and possession, [the said king and infante] under certain most severe penalties then expressed, have prohibited and in general have ordained that none, unless with their sailors and ships and on payment of a certain tribute and with an express license previously obtained from the said king or infante, should presume to sail to the said provinces or to trade in their ports or to fish in the sea, [although the king and infante have taken this action, yet in time it might happen that persons of other kingdoms or nations, led by envy, malice, or covetousness, might presume, contrary to the prohibition aforesaid, without license and payment of such tribute, to go to the said provinces, and in the provinces, harbors, islands, and sea, so acquired, to sail, trade, and fish; and thereupon between King Alfonso and the infante, who would by no means suffer themselves to be so trifled with in these things, and the presumptuous persons
aforesaid, very many hatreds, rancors, dissensions, wars, and scandals, to the highest offense of God and danger of souls, probably might and would ensue -- We [therefore] weighing all and singular the premises with due meditation, and noting that since we had formerly by other letters of ours granted among other things free and ample faculty to the aforesaid King Alfonso -- to invade, search out, capture, vanquish, and subdue all Saracens and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit -- by having secured the said faculty, the said King Alfonso, or, by his authority, the aforesaid infante, justly and lawfully has acquired and possessed, and doth possess, these islands, lands, harbors, and seas, and they do of right belong and pertain to the said King Alfonso and his successors, nor without special license from King Alfonso and his successors themselves has any other even of the faithful of Christ been entitled hitherto, nor is he by any means now entitled lawfully to meddle therewith -- in order that King Alfonso himself and his successors and the infante may be able the more zealously to pursue and may pursue this most pious and noble work, and most worthy of perpetual remembrance (which, since the salvation of souls, increase of the faith, and overthrow of its enemies may be procured thereby, we regard as a work wherein the glory of God, and faith in Him, and His commonwealth, the Universal Church, are concerned) in proportion as they, having been relieved of all the greater obstacles, shall find themselves supported by us and by the Apostolic See with favors and graces -- we, being very fully informed of all and singular the premises, do, motu proprio, not at the instance of King Alfonso or the infante, or on the petition of any other offered to us on their behalf in respect to this matter, and after mature deliberation, by apostolic authority, and from certain knowledge, in the fullness of apostolic power, by the tenor of these presents decree and declare that the aforesaid letters of faculty (the tenor whereof we wish to be considered as inserted word for word in these presents, with all and singular the clauses therein contained) are extended to Ceuta and to the aforesaid and all other acquisitions whatsoever, even those acquired before the date of the said letters of faculty, and to all those provinces, islands, harbors, and seas whatsoever, which hereafter, in the name of the said King Alfonso and of his successors and of the infante, in those parts and the adjoining, and in the more distant and remote parts, can be acquired from the hands of infidels or pagans, and that they are comprehended under the said letters of faculty. And by force of those and of the present letters of faculty the acquisitions already made, and what hereafter shall happen to be acquired, after they shall have been acquired, we do by the tenor of these presents decree and declare have pertain, and forever of right do belong and pertain, to the aforesaid king and to his successors and to the infante, and that the right of conquest which in the course of these letters we declare to be extended from the capes of Bojador and of Não, as far as through all Guinea, and beyond toward that southern shore, has belonged and pertained, and forever of right belongs and pertains, to the said King Alfonso, his successors, and the infante, and not to any others. We also by the tenor of these presents decree and declare that King Alfonso and his successors and the infante aforesaid might and may, now and henceforth, freely and lawfully, in these acquisitions and concerning them make any prohibitions, statutes, and decrees whatsoever, even penal ones, and with imposition of any tribute, and dispose and ordain concerning them as concerning their own property and their other dominions. And in order to confer a more effectual right and assurance we do by these presents forever give, grant, and appropriate to the aforesaid King Alfonso and
his successors, kings of the said kingdoms, and to the infante, the provinces, islands, harbors, places, and seas whatsoever, how many soever, and of what sort soever they shall be, that have already been acquired and that shall hereafter come to be acquired, and the right of conquest also from the capes of Bojador and of Nāo aforesaid.

Moreover, since this is fitting in many ways for the perfecting of a work of this kind, we allow that the aforesaid King Alfonso and [his] successors and the infante, as also the persons to whom they, or any one of them, shall think that this work ought to be committed, may (according to the grant made to the said King John by Martin V., of happy memory, and another grant made also to King Edward of illustrious memory, king of the same kingdoms, father of the said King Alfonso, by Eugenius IV., of pious memory, Roman pontiffs, our predecessors) make purchases and sales of any things and goods and victuals whatsoever, as it shall seem fit, with any Saracens and infidels, in the said regions; and also may enter into any contracts, transact business, bargain, buy and negotiate, and carry any commodities whatsoever to the places of those Saracens and infidels, provided they be not iron instruments, wood to be used for construction, cordage, ships, or any kinds of armor, and may sell them to the said Saracens and infidels; and also may do, perform, or prosecute all other and singular things [mentioned] in the premises, and things suitable or necessary in relation to these; and that the same King Alfonso, his successors, and the infante, in the provinces, islands, and places already acquired, and to be acquired by him, may found and [cause to be] founded and built any churches, monasteries, or other pious places whatsoever; and also may send over to them any ecclesiastical persons whatsoever, as volunteers, both seculars, and regulars of any of the mendicant orders (with license, however, from their superiors), and that those persons may abide there as long as they shall live, and hear confessions of all who live in the said parts or who come thither, and after the confessions have been heard they may give due absolution in all cases, except those reserved to the aforesaid see, and enjoin salutary penance, and also administer the ecclesiastical sacraments freely and lawfully, and this we allow and grant to Alfonso himself, and his successors, the kings of Portugal, who shall come afterwards, and to the aforesaid infante. Moreover, we entreat in the Lord, and by the sprinkling of the blood of our Lord Jesus Christ, whom, as has been said, it concerneth, we exhort, and as they hope for the remission of their sins enjoin, and also by this perpetual edict of prohibition we more strictly inhibit, all and singular the faithful of Christ, ecclesiastics, seculars, and regulars of whatsoever orders, in whatsoever part of the world they live, and of whatsoever state, degree, order, condition, or pre-eminence they shall be, although endued with archiepiscopal, episcopal, imperial, royal, queenly, ducal, or any other greater ecclesiastical or worldly dignity, that they do not by any means presume to carry arms, iron, wood for construction, and other things prohibited by law from being in any way carried to the Saracens, to any of the provinces, islands, harbors, seas, and places whatsoever, acquired or possessed in the name of King Alfonso, or situated in this conquest or elsewhere, to the Saracens, infidels, or pagans; or even without special license from the said King Alfonso and his successors and the infante, to carry or cause to be carried merchandise and other things permitted by law, or to navigate or cause to be navigated those seas, or to fish in them, or to meddle with the provinces, islands, harbors, seas, and places, or any of them, or with this conquest, or to do anything by themselves or another or others, directly or indirectly, by deed or counsel, or to offer any obstruction whereby the aforesaid King Alfonso and his successors and the infante may be hindered from quietly enjoying their acquisitions and possessions, and prosecuting and carrying out this conquest.

And we decree that whosoever shall infringe these orders [shall incur the following penalties],
besides the punishments pronounced by law against those who carry arms and other prohibited things to any of the Saracens, which we wish them to incur by so doing; if they be single persons, they shall incur the sentence of excommunication; if a community or corporation of a city, castle, village, or place, that city, castle, village, or place shall be thereby subject to the interdict; and we decree further that transgressors, collectively or individually, shall not be absolved from the sentence of excommunication, nor be able to obtain the relaxation of this interdict, by apostolic or any other authority, unless they shall first have made due satisfaction for their transgressions to Alfonso himself and his successors and to the infante, or shall have amicably agreed with them thereupon. By [these] apostolic writings we enjoin our venerable brothers, the archbishop of Lisbon, and the bishops of Silves and Ceuta, that they, or two or one of them, by himself, or another or others, as often as they or any of them shall be required on the part of the aforesaid King Alfonso and his successors and the infante or any one of them, on Sundays, and other festival days, in the churches, while a large multitude of people shall assemble there for divine worship, do declare and denounce by apostolic authority that those persons who have been proved to have incurred such sentences of excommunication and interdict, are excommunicated and interdicted, and have been and are involved in the other punishments aforesaid. And we decree that they shall also cause them to be denounced by others, and to be strictly avoided by all, till they shall have made satisfaction for or compromised their transgressions as aforesaid. Offenders are to be held in check by ecclesiastical censure, without regard to appeal, the apostolic constitutions and ordinances and all other things whatsoever to the contrary notwithstanding. But in order that the present letters, which have been issued by us of our certain knowledge and after mature deliberation thereupon, as is aforesaid, may not hereafter be impugned by anyone as fraudulent, secret, or void, we will, and by the authority, knowledge, and power aforementioned, we do likewise by these letters, decree and declare that the said letters and what is contained therein cannot in any wise be impugned, or the effect thereof hindered or obstructed, on account of any defect of fraudulency, secrecy, or nullity, not even from a defect of the ordinary or of any other authority, or from any other defect, but that they shall be valid forever and shall obtain full authority. And if anyone, by whatever authority, shall, wittingly or unwittingly, attempt anything inconsistent with these orders we decree that his act shall be null and void. Moreover, because it would be difficult to carry our present letters to all places whatsoever, we will, and by the said authority we decree by these letters, that faith shall be given as fully and permanently to copies of them, certified under the hand of a notary public and the seal of the episcopal or any superior ecclesiastical court, as if the said original letters were exhibited or shown; and we decree that within two months from the day when these present letters, or the paper or parchment containing the tenor of the same, shall be affixed to the doors of the church at Lisbon, the sentences of excommunication and the other sentences contained therein shall bind all and singular offenders as fully as if these present letters had been made known and presented to them in person and lawfully. Therefore let no one infringe or with rash boldness contravene this our declaration, constitution, gift, grant, appropriation, decree, supplication, exhortation, injunction, inhibition, mandate, and will. But if anyone should presume to do so, be it known to him that he will incur the wrath of Almighty God and of the blessed apostles Peter and Paul. Given at Rome, at Saint Peter's, on the eighth day of January, in the year of the incarnation of our Lord one thousand four hundred and fifty-four, and in the eighth year of our pontificate."
Privileges and Prerogatives Granted by Their Catholic Majesties to Christopher Columbus : 1492

FERDINAND and ELIZABETH, by the Grace of God, King and Queen of Castile, of Leon, of Arragon, of Sicily, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Minorca, of Sevill, of Sardinia, of Jaen, of Algarve, of Algezira, of Gibraltar, of the Canary Islands, Count and Countess of Barcelona, Lord and Lady of Biscay and Molina, Duke and Duchess of Athens and Neopatria. Count and Countess of Rousillion and Cerdaigne, Marquess and Marchioness of Oristan and Gociano, &c.

For as much of you, Christopher Columbus, are going by our command, with some of our vessels and men, to discover and subdue some Islands and Continent in the ocean, and it is hoped that by God's assistance, some of the said Islands and Continent in the ocean will be discovered and conquered by your means and conduct, therefore it is but just and reasonable, that since you expose yourself to such danger to serve us, you should be rewarded for it. And we being willing to honour and favour You for the reasons aforesaid: Our will is, That you, Christopher Columbus, after discovering and conquering the said Islands and Continent in the said ocean, or any of them, shall be our Admiral of the said Islands and Continent you shall so discover and conquer; and that you be our Admiral, Vice-Roy, and Governour in them, and that for the future, you may call and stil yourself, D. Christopher Columbus, and that your sons and successors in the said employment, may call themselves Dons, Admirals, Vice-Roys, and Governours of them; and that you may exercise the office of Admiral, with the charge of Vice-Roy and Governour of the said Islands and Continent, which you and your Lieutenants shall conquer, and freely decide all causes, civil and criminal, appertaining to the said employment of Admiral, Vice-Roy, and Governour, as you shall think fit in justice, and as the Admirals of our kingdoms use to do; and that you have power to punish offenders; and you and your Lieutenants exercise the employments of Admiral, Vice-Roy, and Governour, in all things belonging to the said offices, or any of them; and that you enjoy the perquisites and salaries belonging to the said employments, and to each of them, in the same manner as the High Admiral of our kingdoms does. And by this our letter, or a copy of it signed by a Public Notary: We command Prince John, our most dearly beloved Son, the Infants, Dukes, Prelates, Marquesses, Great Masters and Military Orders, Priors. Commandaries, our Counsellors, Judges, and other Officers of Justice whatsoever, belonging Courts, and Chancery, and Constables of Castles, Strong Houses, and others; and all Corporations, Baylifs, Governours, Judges, Commanders, Sea Officers; and the Aldermen, Common Council, Officers, and Good People of all Cities, Lands, and Places in our Kingdoms and Dominions, and in those you shall conquer and subdue, and the captains masters, mates, and other officers and sailors, our natural subjects now being, or that shall be for the time to come, and any of them that when you shall have discovered the said Islands and Continent in the ocean; and you, or any that shall have your commission, shall have taken the usual oath in such cases, that they for the future, look upon you as long as you live, and after you, your son and heir, and so from one heir to another forever, as our Admiral on our said Ocean, and as Vice-Roy and Governour of the said Islands and Continent, by you, Christopher Columbus, discovered and conquered; and that they treat you and your Lieutenants, by you appointed, for executing the employments of Admiral, Vice-Roy, and Governour, as such in all respects, and give you all the perquisites and other things belonging and appertaining to the said offices; and allow, and cause to be allowed you, all the honours, graces, concessions, prehaminences, prerogatives, immunities, and other things, or any of them which are due to you, by virtue of your commands of Admiral, Vice-Roy, and Governour, and to be observed completely, so that nothing be diminished; and that they make no objection to this, or any part of it, nor suffer it to be made; forasmuch as we from this time forward, by this our letter, bestow on you the employments of Admiral, Vice-Roy, and perpetual Governour forever; and we put you into possession of the said offices, and of every of them, and full power to use and exercise them, and to receive the perquisites and salaries belonging to them, or any of them, as was said above. Concerning all which things, if it be requisite, and you shall desire it, We command our Chancellour, Notaries, and other Officers, to pass, seal, and deliver to you, our Letter of Privilege, in such form and legal manner, as you shall require or stand in need of. And that none of them presume to do any thing to the contrary, upon pain of our displeasure, and forfeiture of 30 ducats for each offence. And we command him, who shall show them this our Letter, that he summon them to appear before us at our Court, where we shall then be, within fifteen days after such summons, under the said penalty. Under which same, we also command any Public Notary whatsoever, that he give to him that shows it him, a certificate under his seal, that we may know how our command is obeyed.

GIVEN at Granada, on the 30th of April, in the year of our Lord, 1492.-

I, THE KING, I, THE QUEEN.

By their Majesties Command, John Coloma Secretary to the King and Queen.
"Alexander, bishop, servant of the servants of God, to the illustrious sovereigns, our very dear son in Christ, Ferdinand, king, and our very dear daughter in Christ, Isabella, queen of Castile, Leon, Aragon, Sicily, and Granada, health and apostolic benediction. Among other works well pleasing to the Divine Majesty and cherished of our heart, this assuredly ranks highest, that in our times especially the Catholic faith and the Christian religion be exalted and be everywhere increased and spread, that the health of souls be cared for and that barbarous nations be overthrown and brought to the faith itself. Wherefore inasmuch as by the favor of divine clemency, we, though of insufficient merits, have been called to this Holy See of Peter, recognizing that as true Catholic kings and princes, such as we have known you always to be, and as your illustrious deeds already known to almost the whole world declare, you not only eagerly desire but with every effort, zeal, and diligence, without regard to hardships, expenses, dangers, with the shedding even of your blood, are laboring to that end; recognizing also that you have long since dedicated to this purpose your whole soul and all your endeavors -- as witnessed in these times with so much glory to the Divine Name in your recovery of the kingdom of Granada from the yoke of the Saracens -- we therefore are rightly led, and hold it as our duty, to grant you even of our own accord and in your favor those things whereby with effort each day more heartily you may be enabled for the honor of God himself and the spread of the Christian rule to carry forward your holy and praiseworthy purpose so pleasing to immortal God. We have indeed learned that you, who for a long time had intended to seek out and discover certain islands and mainlands remote and unknown and not hitherto discovered by others, to the end that you might bring to the worship of our Redeemer and the profession of the Catholic faith their residents and inhabitants, having been up to the present time greatly engaged in the siege and recovery of the kingdom itself of Granada were unable to accomplish this holy and praiseworthy purpose; but the said kingdom having at length been regained, as was pleasing to the Lord, you, with the wish to fulfill your desire, chose our beloved son, Christopher Columbus, a man assuredly worthy and of the highest recommendations and fitted for so great an undertaking, whom you furnished with ships and men equipped for like designs, not without the greatest hardships, dangers, and expenses, to make diligent quest for these remote and unknown mainlands and islands through the sea, where hitherto no one had sailed; and they at length, with divine aid and with the utmost diligence sailing in the ocean sea, discovered certain very remote islands and even mainlands that hitherto had not been discovered by others; wherein dwell very many peoples living in peace, and, as reported, going unclothed, and not eating flesh. Moreover, as your aforesaid envoys are of opinion, these very peoples living in the said islands and countries believe in one God, the Creator in heaven, and seem sufficiently disposed to embrace the Catholic faith and be trained in good morals. And it is hoped that, were they instructed, the name of the Savior, our Lord Jesus Christ, would easily be introduced into the said countries and islands. Also, on one of the chief of these aforesaid islands the said Christopher has already caused to be put together and built a fortress fairly equipped, wherein he has stationed as garrison certain Christians, companions of his, who are to make search for other remote and unknown islands and mainlands. In the islands and countries already discovered are found gold, spices, and very many other precious things of divers kinds and qualities. Wherefore, as becomes
Catholic kings and princes, after earnest consideration of all matters, especially of the rise and spread of the Catholic faith, as was the fashion of your ancestors, kings of renowned memory, you have purposed with the favor of divine clemency to bring under your sway the said mainlands and islands with their residents and inhabitants and to bring them to the Catholic faith. Hence, heartily commending in the Lord this your holy and praiseworthy purpose, and desirous that it be duly accomplished, and that the name of our Savior be carried into those regions, we exhort you very earnestly in the Lord and by your reception of holy baptism, whereby you are bound to our apostolic commands, and by the bowels of the mercy of our Lord Jesus Christ, enjoin strictly, that inasmuch as with eager zeal for the true faith you design to equip and despatch this expedition, you purpose also, as is your duty, to lead the peoples dwelling in those islands and countries to embrace the Christian religion; nor at any time let dangers or hardships deter you therefrom, with the stout hope and trust in your hearts that Almighty God will further your undertakings. And, in order that you may enter upon so great an undertaking with greater readiness and heartiness endowed with the benefit of our apostolic favor, we, of our own accord, not at your instance nor the request of anyone else in your regard, but of our own sole largess and certain knowledge and out of the fullness of our apostolic power, by the authority of Almighty God conferred upon us in blessed Peter and of the vicarship of Jesus Christ, which we hold on earth, do by tenor of these presents, should any of said islands have been found by your envoys and captains, give, grant, and assign to you and your heirs and successors, kings of Castile and Leon, forever, together with all their dominions, cities, camps, places, and villages, and all rights, jurisdictions, and appurtenances, all islands and mainlands found and to be found, discovered and to be discovered towards the west and south, by drawing and establishing a line from the Arctic pole, namely the north, to the Antarctic pole, namely the south, no matter whether the said mainlands and islands are found and to be found in the direction of India or towards any other quarter, the said line to be distant one hundred leagues towards the west and south from any of the islands commonly known as the Azores and Cape Verde. With this proviso however that none of the islands and mainlands, found and to be found, discovered and to be discovered, beyond that said line towards the west and south, be in the actual possession of any Christian king or prince up to the birthday of our Lord Jesus Christ just past from which the present year one thousand four hundred and ninety-three begins. And we make, appoint, and depute you and your said heirs and successors lords of them with full and free power, authority, and jurisdiction of every kind; with this proviso however, that by this our gift, grant, and assignment no right acquired by any Christian prince, who may be in actual possession of said islands and mainlands prior to the said birthday of our Lord Jesus Christ, is hereby to be understood to be withdrawn or taken away. Moreover we command you in virtue of holy obedience that, employing all due diligence in the premises, as you also promise -- nor do we doubt your compliance therein in accordance with your loyalty and royal greatness of spirit -- you should appoint to the aforesaid mainlands and islands worthy, God-fearing, learned, skilled, and experienced men, in order to instruct the aforesaid inhabitants and residents in the Catholic faith and train them in good morals. Furthermore, under penalty of excommunication late sententiae to be incurred ipso facto, should anyone thus contravene, we strictly forbid all persons of whatsoever rank, even imperial and royal, or of whatsoever estate, degree, order, or condition, to dare, without your special permit or that of your aforesaid heirs and successors, to go for the purpose of trade or any other reason to the islands or mainlands, found and to be found, discovered and to be discovered, towards the west and south, by drawing and establishing a line from the Arctic pole to the Antarctic pole, no matter whether the mainlands and islands, found and to be found, lie in the
direction of India or toward any other quarter whatsoever, the said line to be distant one hundred leagues towards the west and south, as is aforesaid, from any of the islands commonly known as the Azores and Cape Verde; apostolic constitutions and ordinances and other decrees whatsoever to the contrary notwithstanding. We trust in Him from whom empires and governments and all good things proceed, that, should you, with the Lord's guidance, pursue this holy and praiseworthy undertaking, in a short while your hardships and endeavors will attain the most felicitous result, to the happiness and glory of all Christendom. But inasmuch as it would be difficult to have these present letters sent to all places where desirable, we wish, and with similar accord and knowledge do decree, that to copies of them, signed by the hand of a public notary commissioned therefore, and sealed with the seal of any ecclesiastical officer or ecclesiastical court, the same respect is to be shown in court and outside as well as anywhere else as would be given to these presents should they thus be exhibited or shown. Let no one, therefore, infringe, or with rash boldness contravene, this our recommendation, exhortation, requisition, gift, grant, assignment, constitution, deputation, decree, mandate, prohibition, and will. Should anyone presume to attempt this, be it known to him that he will incur the wrath of Almighty God and of the blessed apostles Peter and Paul. Given at Rome, at St. Peter's, in the year of the incarnation of our Lord one thousand four hundred and ninety-three, the fourth of May, and the first year of our pontificate.

Gratis by order of our most holy lord, the pope."

June. For the referendary, For J. Bufolinus, A. de Mucciarellis. A. Santoseverino. L. Podocatharus.

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(http://www.doctrineofdiscovery.org/inter%20caetera.htm

http://avalon.law.yale.edu/15th_century/colum.asp)
The Treaty of Tordesillas was concluded on June 7, 1494 to settle the contentious matter of the possession of the newly discovered lands of the non-Christian world between Portugal and Spain. It was ratified by Spain on July 2, 1494, and by Portugal on September 5, 1494.

The judiciary precedent of the treaty was the Inter Caetera Papal Bull, issued on May 4, 1493 by the Spanish Pope Alexander VI. The Inter Caetera Bull fixed the demarcation line along a circle passing 100 leagues W of the Cape Verde Islands and through the two poles. This division gave the entire New World to Spain and Africa and India to Portugal. The margin of the maneuver given to Portugal by the papal bull was small.

The Treaty of Tordesillas shifted the demarcation line to a circle passing 370 leagues West of the Cape Verde Islands and thus set the legal base for the colonization of the eastern coast of the land now known as Brazil by the Portuguese explorer Pedro Alvarez Cabral. He landed there on April 22, 1500 claimed the land and named it: Tierra da Vera Cruz (land of the true cross).

The treaty with the signature of the sovereign of Spain and Portugal

TRANSLATION OF THE TREATY

Don Ferdinand and Dona Isabella, by the grace of God king and queen of Castile, Leon, Aragon, Sicily, Granada, Toledo, Valencia, Galicia, Majorca Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, Algarve, Algeciras, Gibraltar, and the Canary Islands, count and countess of Barcelona, lord and lady of Biscay and Molina, duke and duchess of Athens and Neopatras, count and countess of Roussillon and Cerdagne, marquis and marchioness of Oristano and Gociano, together with the Prince Don John, our very dear and very beloved first-born son, heir of our aforesaid kingdoms and lordships. Whereas by Don Enrique Enriques, our chief steward, Don Gutierre de Cardenas, chief commissary of Leon, our chief auditor, and Doctor Rodrigo Maldonado, all members of our council, it was treated, adjusted, and agreed for us and in our name and by virtue of our power with the most serene Dom John, by the grace of God, king of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, our very dear and very beloved brother, and with Ruy de Sousa, lord of Sagres and Berenguel, Dom Joao de Sousa, his son, chief inspector of weights and measures of the said Most Serene King our brother, and Ayres de Almada, magistrate of the civil cases in his court and member of his desembargo, all members of the council of the aforesaid Most Serene King our brother, [and acting] in his name and by virtue of his power, his ambassadors, who came to us in regard to the controversy over what part belongs to us and what part to the said Most Serene King our brother, of that which up to this seventh day of the present month of June, the date of this instrument, is discovered in the ocean sea, in which said agreement our aforesaid representatives promised among other things that within a certain term specified in it we should sanction, confirm, swear to, ratify, and approve the above-mentioned agreement in person: we, wishing to fulfill and
fulfilling all that which was thus adjusted, agreed upon, and authorized in our name in regard to the above-mentioned, ordered the said instrument of the aforesaid agreement and treaty to be brought before us that we might see and examine it, the tenor of which, word for word, is as follows:

In the name of God Almighty, Father, Son, and Holy Ghost, three truly separate and distinct persons and only one divine essence. Be it manifest and known to all who shall see this public instrument, that at the village of Tordesillas, on the seventh day of the month of June, in the year of the nativity of our Lord Jesus Christ 1494, in the presence of us, the secretaries, clerks, and notaries public subscribed below, there being present the honorable Don Enrique Enriques, chief steward of the very exalted and very mighty princes, the lord and lady Don Ferdinand and Dona Isabella, by the grace of God king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., Don Gutierrez de Cardenas, chief auditor of the said lords, the king and queen, and Doctor Rodrigo Maldonado, all members of the council of the said lords, the king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., their qualified representatives of the one part, and the honorable Ruy de Sousa, lord of Sagres and Berenguel, Dom Juan de Sousa, his son, chief inspector of weights and measures of the very exalted and very excellent lord Dom John, by the grace of God King of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, and Ayres de Almada, magistrate of civil cases in his court and member of his desembargo, all of the council of the said lord King of Portugal, and his qualified ambassadors and representatives, as was proved by both the said parties by means of the letters of authorization and procurations from the said lords their constituents, the tenor of which, word for word, is as follows:

[Here follow the full powers granted by Ferdinand and Isabella to Don Enrique Enriques, Don Gutierrez de Cardenas, and Dr. Rodrigo Maldonado on June 5, 1494; and the full powers granted by John II. to Ruy de Sousa, Joao de Sousa, and Ayres Almada on March 8, 1494.]

"Thereupon it was declared by the above-mentioned representatives of the aforesaid King and Queen of Castile, Leon, Aragon, Sicily, Granada, etc., and of the aforesaid King of Portugal and the Algarves, etc.:

[I.] That, whereas a certain controversy exists between the said lords, their constituents, as to what lands, of all those discovered in the ocean sea up to the present day, the date of this treaty, pertain to each one of the said parts respectively; therefore, for the sake of peace and concord, and for the preservation of the relationship and love of the said King of Portugal for the said King and Queen of Castile, Aragon, etc., it being the pleasure of their Highnesses, they, their said representatives, acting in their name and by virtue of their powers herein described, covenanted and agreed that a boundary or straight line be determined and drawn north and south, from pole to pole, on the said ocean sea, from the Arctic to the Antarctic pole. This boundary or line shall be drawn straight, as aforesaid, at a distance of three hundred and seventy leagues west of the Cape Verde Islands, being calculated by degrees, or by any other manner as may be considered the best and readiest, provided the distance shall be no greater than abovesaid. And all lands, both islands and mainlands, found and discovered already, or to be found and discovered hereafter, by the said King of Portugal and by his vessels on this side of the said line and bound determined as above, toward the east, in either north or south latitude, on the eastern side of the said bound provided the said bound is not crossed, shall belong to, and remain in the
possession of, and pertain forever to, the said King of Portugal and his successors. And all other lands, both islands and mainlands, found or to be found hereafter, discovered or to be discovered hereafter, which have been discovered or shall be discovered by the said King and Queen of Castile, Aragon, etc., and by their vessels, on the western side of the said bound, determined as above, after having passed the said bound toward the west, in either its north or south latitude, shall belong to, and remain in the possession of, and pertain forever to, the said King and Queen of Castile, Leon, etc., and to their successors.

[2.] Item, the said representatives promise and affirm by virtue of the powers aforesaid, that from this date no ships shall be despatched-namely as follows: the said King and Queen of Castile, Leon, Aragon, etc., for this part of the bound, and its eastern side, on this side the said bound, which pertains to the said King of Portugal and the Algarves, etc.; nor the said King of Portugal to the other part of the said bound which pertains to the said King and Queen of Castile, Aragon, etc.-for the purpose of discovering and seeking any mainlands or islands, or for the purpose of trade, barter, or conquest of any kind. But should it come to pass that the said ships of the said King and Queen of Castile, Leon, Aragon, etc., on sailing thus on this side of the said bound, should discover any mainlands or islands in the region pertaining, as above said, to the said King of Portugal, such mainlands or islands shall pertain to and belong forever to the said King of Portugal and his heirs, and their Highnesses shall order them to be surrendered to him immediately. And if the said ships of the said King of Portugal discover any islands and mainlands in the regions of the said King and Queen of Castile, Leon, Aragon, etc., all such lands shall belong to and remain forever in the possession of the said King and Queen of Castile, Leon, Aragon, etc., and their heirs, and the said King of Portugal shall cause such lands to be surrendered immediately.

[3.] Item, in order that the said line or bound of the said division may be made straight and as nearly as possible the said distance of three hundred and seventy leagues west of the Cape Verde Islands, as hereinbefore stated, the said representatives of both the said parties agree and assent that within the ten months immediately following the date of this treaty their said constituent lords shall despatch two or four caravels, namely, one or two by each one of them, a greater or less number, as they may mutually consider necessary. These vessels shall meet at the Grand Canary Island during this time, and each one of the said parties shall send certain persons in them, to wit, pilots, astrologers, sailors, and any others they may deem desirable. But there must be as many on one side as on the other, and certain of the said pilots, astrologers, sailors, and others of those sent by the said King and Queen of Castile, Aragon, etc., and who are experienced, shall embark in the ships of the said King of Portugal and the Algarves; in like manner certain of the said persons sent by the said King of Portugal shall embark in the ship or ships of the said King and Queen of Castile, Aragon, etc.; a like number in each case, so that they may jointly study and examine to better advantage the sea, courses, winds, and the degrees of the sun or of north latitude, and lay out the leagues aforesaid, in order that, in determining the line and boundary, all sent and empowered by both the said parties in the said vessels, shall jointly concur. These said vessels shall continue their course together to the said Cape Verde Islands, from whence they shall lay a direct course to the west, to the distance of the said three hundred and seventy degrees, measured as the said persons shall agree, and measured without prejudice to the said parties. When this point is reached, such point will constitute the place and mark for measuring degrees of the sun or of north latitude either by daily runs measured in
leagues, or in any other manner that shall mutually be deemed better. This said line shall be
drawn north and south as aforesaid, from the said Arctic pole to the said Antarctic pole. And
when this line has been determined as aforesaid, those sent by each of the aforesaid parties, to
whom each one of the said parties must delegate his own authority and power, to determine the
said mark and bound, shall draw up a writing concerning it and affix thereto their signatures.
And when determined by the mutual consent of all of them, this line shall be considered as a
perpetual mark and bound, in such wise that the said parties, or either of them, or their future
successors, shall be unable to deny it, or erase or remove it, at any time or in any manner
whatsoever. And should, perchance, the said line and bound from pole to pole, as aforesaid,
intersect any island or mainland, at the first point of such intersection of such island or mainland
by the said line, some kind of mark or tower shall be erected, and a succession of similar marks
shall be erected in a straight line from such mark or tower, in a line identical with the above-
mentioned bound. These marks shall separate those portions of such land belonging to each one
of the said parties; and the subjects of the said parties shall not dare, on either side, to enter the
territory of the other, by crossing the said mark or bound in such island or mainland.

[4.] Item, inasmuch as the said ships of the said King and Queen of Castile, Leon, Aragon, etc.,
sailing as before declared, from their kingdoms and seigniories to their said possessions on the
other side of the said line, must cross the seas on this side of the line, pertaining to the said King
of Portugal, it is therefore concerted and agreed that the said ships of the said King and Queen of
Castile, Leon, Aragon, etc., shall, at any time and without any hindrance, sail in either direction,
freely, securely, and peacefully, over the said seas of the said King of Portugal, and within the
said line. And whenever their Highnesses and their successors wish to do so, and deem it
expedient, their said ships may take their courses and routes direct from their kingdoms to any
region within their line and bound to which they desire to despatch expeditions of discovery,
conquest, and trade. They shall take their courses direct to the desired region and for any purpose
desired therein, and shall not leave their course, unless compelled to do so by contrary weather.
They shall do this provided that, before crossing the said line, they shall not seize or take
possession of anything discovered in his said region by the said King of Portugal; and should
their said ships find anything before crossing the said line, as aforesaid, it shall belong to the said
King of Portugal, and their Highnesses shall order it surrendered immediately. And since it is
possible that the ships and subjects of the said King and Queen of Castile, Leon, etc., or those
acting in their name, may discover before the twentieth day of this present month of June,
following the date of this treaty, some islands and mainlands within the said line, drawn straight
from pole to pole, that is to say, inside the said three hundred and seventy leagues west of the
Cape Verde Islands, as aforesaid, it is hereby agreed and determined, in order to remove all
doubt, that all such islands and mainlands found and discovered in any manner whatsoever up to
the said twentieth day of this said month of June, although found by ships and subjects of the
said King and Queen of Castile, Aragon, etc., shall pertain to and remain forever in the
possession of the said King of Portugal and the Algarves, and of his successors and kingdoms,
provided that they lie within the first two hundred and fifty leagues of the said three hundred and
seventy leagues reckoned west of the Cape Verde Islands to the above-mentioned line-in
whatsoever part, even to the said poles, of the said two hundred and fifty leagues they may be
found, determining a boundary or straight line from pole to pole, where the said two hundred and
fifty leagues end. Likewise all the islands and mainlands found and discovered up to the said
twentieth day of this present month of June by the ships and subjects of the said King and Queen
of Castile, Aragon, etc., or in any other manner, within the other one hundred and twenty leagues that still remain of the said three hundred and seventy leagues where the said bound that is to be drawn from pole to pole, as aforesaid, must be determined, and in whatever part of the said one hundred and twenty leagues, even to the said poles, they that are found up to the said day shall pertain to and remain forever in the possession of the said King and Queen of Castile, Aragon, etc., and of their successors and kingdoms; just as whatever is or shall be found on the other side of the said three hundred and seventy leagues pertaining to their Highnesses, as aforesaid, is and must be theirs, although the said one hundred and twenty leagues are within the said bound of the said three hundred and seventy leagues pertaining to the said King of Portugal, the Algarves, etc., as aforesaid.

And if, up to the said twentieth day of this said month of June, no lands are discovered by the said ships of their Highnesses within the said one hundred and twenty leagues, and are discovered after the expiration of that time, then they shall pertain to the said King of Portugal as is set forth in the above.

The said Don Enrique Enriques, chief steward, Don Gutierre de Cardenas, chief auditor, and Doctor Rodrigo Maldonado, representatives of the said very exalted and very mighty princes, the lord and lady, the king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., by virtue of their said power, which is incorporated above, and the said Ruy de Sousa, Dom Joao de Sousa, his son, and Arias de Almadana, representatives and ambassadors of the said very exalted and very excellent prince, the lord king of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, by virtue of their said power, which is incorporated above, promised, and affirmed, in the name of their said constituents, [saying that they and their successors and kingdoms and lordships, forever and ever, would keep, observe, and fulfill, really and effectively, renouncing all fraud, evasion, deceit, falsehood, and pretense, everything set forth in this treaty, and each part and parcel of it; and they desired and authorized that everything set forth in this said agreement and every part and parcel of it be observed, fulfilled, and performed as everything which is set forth in the treaty of peace concluded and ratified between the said lord and lady, the king and queen of Castile, Aragon, etc., and the lord Dom Alfonso, king of Portugal (may he rest in glory) and the said king, the present ruler of Portugal, his son, then prince in the former year of 1479, must be observed, fulfilled, and performed, and under those same penalties, bonds, securities, and obligations, in accordance with and in the manner set forth in the said treaty of peace. Also they bound themselves [by the promise] that neither the said parties nor any of them nor their successors forever should violate or oppose that which is abovesaid and specified, nor any part or parcel of it, directly or indirectly, or in any other manner at any time, or in any manner whatsoever, premeditated or not premeditated, or that may or can be, under the penalties set forth in the said agreement of the said peace; and whether the fine be paid or not paid, or graciously remitted, that this obligation, agreement, and treaty shall continue in force and remain firm, stable, and valid forever and ever. That thus they will keep, observe, perform, and pay everything, the said representatives, acting in the name of their said constituents, pledged the property, movable and real, patrimonial and fiscal, of each of their respective parties, and of their subjects and vassals, possessed and to be possessed. They renounced all laws and rights of which the said parties or either of them might take advantage to violate or oppose the foregoing or any part of it; and for the greater security and stability of the aforesaid, they swore before God and the Blessed Mary and upon the sign of the Cross, on which
they placed their right hands, and upon the words of the Holy Gospels, wheresoever they are written at greatest length, and on the consciences of their said constituents, that they, jointly and severally, will keep, observe, and fulfill all the aforesaid and each part and parcel of it, really and effectively, renouncing all fraud, evasion, deceit, falsehood, and pretense, and that they will not contradict it at any time or in any manner. And under the same oath they swore not to seek absolution or release from it from our most Holy Father or from any other legate or prelate who could give it to them. And even though, proprio motu, it should be given to them, they will not make use of it; rather, by this present agreement, they, acting in the said name, entreat our most Holy Father that his Holiness be pleased to confirm and approve this said agreement, according to what is set forth therein; and that he order his bulls in regard to it to be issued to the parties or to whichever of the parties may solicit them, with the tenor of this agreement incorporated therein, and that he lay his censures upon those who shall violate or oppose it at any time whatsoever. Likewise, the said representatives, acting in the said names, bound themselves under the same penalty and oath, that within the one hundred days next following, reckoned from the day of the date of this agreement, the parties would mutually exchange the approbation and ratification of this said agreement, written on parchment, signed with the names of the said lords, their constituents, and sealed with their hanging leaden seals; and that the instrument which the said lords, the king and queen of Castile, Aragon, etc., should have to issue, must be signed, agreed to, and sanctioned by the very noble and most illustrious lord, Prince Don Juan, their son. Of all the foregoing they authorized two copies, both of the same tenor exactly, which they signed with their names and executed before the undersigned secretaries and notaries public, one for each party. And whichever copy is produced, it shall be as valid as if both the copies which were made and executed in the said town of Tordesillas, on the said day, month, and year aforesaid, should be produced. The chief deputy, Don Enrique, Ruy de Sousa, Dom Juan de Sousa, Doctor Rodrigo Maldonado, Licentiate Ayres. Witnesses who were present and who saw the said representatives and ambassadors sign their names here and execute the aforesaid, and take the said oath: The deputy Pedro de Leon and the deputy Fernando de Torres, residents of the town of Valladolid, the deputy Fernando de Gamarra, deputy of Zagra and Cenete, contino of the house of the said king and queen, our lords, and Joao Suares de Sequeira, Ruy Leme, and Duarte Pacheco, continos of the house of the said King of Portugal, summoned for that purpose. And I, Fernando Alvarez de Toledo, secretary of the king and queen, our lords, member of their council, and their scrivener of the high court of justice, and notary public in their court and throughout their realms and lordships, witnessed all the aforesaid, together with the said witnesses and with Estevan Vaez, secretary of the said King of Portugal, who by the authority given him by the said king and queen, our lords, to certify to this act in their kingdoms, also witnessed the aforesaid; and at the request and with the authorization of all the said representatives and ambassadors, who in my presence and his here signed their names, I caused this public instrument of agreement to be written. It is written on these six leaves of paper, in entire sheets, written on both sides, together with this leaf, which contains the names of the aforesaid persons and my sign; and the bottom of every page is marked with the notarial mark of my name and that of the said Estevan Vaez. And in witness I here make my sign, which is thus. In testimony of truth: Fernando Alvarez. And I, the said Estevan Vaez (who by the authority given me by the said lords, the king and queen of Castile, and of Leon, to make it public throughout their kingdoms and lordships, together with the said Fernando Alvarez, at the request and summons of the said ambassadors and representatives witnessed everything), in testimony and assurance thereof signed it here with my public sign, which is thus.
The said deed of treaty, agreement, and concord, above incorporated, having been examined and understood by us and by the said Prince Don John, our son, we approve, commend, confirm, execute, and ratify it, and we promise to keep, observe, and fulfill all the above-said that is set forth therein, and every part and parcel of it, really and effectively. We renounce all fraud, evasion, falsehood, and pretense, and we shall not violate or oppose it, or any part of it, at any time or in any manner whatsoever. For greater security, we and the said prince Don John, our son, swear before God and Holy Mary, and by the words of the Holy Gospels, wheresoever they are written at greatest length, and upon the sign of the Cross upon which we actually placed our right hands, in the presence of the said Ruy de Sousa, Dom Joao de Sousa, and Licentiate Ayres de Almada, ambassadors and representatives of the said Most Serene King of Portugal, our brother, thus to keep, observe, and fulfill it, and every part and parcel of it, so far as it is incumbent upon us, really and effectively, as is above-said, for ourselves and for our heirs and successors, and for our said kingdoms and lordships, and the subjects and natives of them, under the penalties and obligations, bonds and abjurations set forth in the said contract of agreement and concord above written. In attestation and corroboration whereof, we sign our name to this our letter and order it to be sealed with our leaden seal’ hanging by threads of colored silk. Given in the town of Arevalo, on the second day of the month of July, in the year of the nativity of our Lord Jesus Christ, 1494.


I, FERNANDO ALVAREZ de Toledo, secretary of the king and of the queen, our lords, have caused it to be written by their mandate.

. . . doctor.

Source:
Davenport, Frances Gardiner
European Treaties Bearing on the History of the United States to 1648

http://www.doctrineofdiscovery.org/tordesillas.htm
Patent Granted by King Henry VII to John Cabot and his Sons  March 5, 1496

By this public document, Henry VII indicated his official, royal support for Cabot's enterprise. As an agent of the English Crown, Cabot was empowered to investigate, claim and possess lands "which before this time were unknown to all Christians" - which meant he could not intrude on Spanish and Portuguese discoveries. The king would receive one fifth of the value of merchandise brought back to Bristol, though he had invested no money of his own.

For John Cabot and his Sons.

The King, to all to whom, etc. Greeting: Be it known and made manifest that we have given and granted as by these presents we give and grant, for us and our heirs, to our well beloved John Cabot, citizen of Venice, and to Lewis, Sebastian and Sancio, sons of the said John, and to the heirs and deputies of them, and of any one of them, full and free authority, faculty and power to sail to all parts, regions and coasts of the eastern, western and northern sea, under our banners, flags and ensigns, with five ships or vessels of whatsoever burden and quality they may be, and with so many and such mariners and men as they may wish to take with them in the said ships, at their own proper costs and charges, to find, discover and investigate whatsoever islands, countries, regions or provinces of heathens and infidels, in whatsoever part of the world placed, which before this time were unknown to all Christians. We have also granted to them and to any of them, and to the heirs and deputies of them and of any one of them, and have given licence to set up our aforesaid banners and ensigns in any town, city, castle, island or mainland whatsoever, newly found by them. And that the before-mentioned John and his sons or their heirs and deputies may conquer, occupy and possess whatsoever such towns, cities and islands by them thus discovered that they may be able to conquer, occupy and possess, as our vassals and governors lieutenants and deputies therein, acquiring for us the dominion, title and jurisdiction of the same towns, cities, islands and mainlands so discovered; in such a way nevertheless that of all the fruits, profits, emoluments, commodities, gains and revenues accruing from this voyage, the said John and sons and their heirs and deputies shall be bound and under obligation for their every voyage, as often as they shall arrive at our port of Bristol, at which they are bound and holden only to arrive, all necessary charges and expenses incurred by them having been deducted, to pay to us, either in goods or money, the fifth part of the whole capital gained, we giving and granting to them and to their heirs and deputies, that they shall be free and exempt from all payment of customs on all and singular the goods and merchandise that they may bring back with them from those places thus newly discovered.

And further we have given and granted to them and to their heirs and deputies, that all mainlands, islands, towns, cities, castles and other places whatsoever discovered by them,
however numerous they may happen to be, may not be frequented or visited by any other subjects of ours whatsoever without the licence of the aforesaid John and his sons and of their deputies, on pain of the loss as well of the ships or vessels daring to sail to these places discovered, as of all goods whatsoever. Willing and strictly commanding all and singular our subjects as well by land as by sea, that they shall render good assistance to the aforesaid John and his sons and deputies, and that they shall give them all their favour and help as well in fitting out the ships or vessels as in buying stores and provisions with their money and in providing the other things which they must take with them on the said voyage.

In witness whereof, etc.

Witness ourself at Westminster on the fifth day of March.

By the King himself, etc


http://www.doctrineofdiscovery.org/patent%20henry%20vii.htm

Requerimiento, 1514
# Requerimiento ["Requirement"], by Charles I of Spain [abridged]: Spanish conquistadors read this document, composed in 1514, to Indians of the new world. It briefly explains Spain's
assertion of its legal and moral right to rule over the inhabitants of Latin America. It also provides a rationale for a "just war." Legalistic Spaniards devised this doctrine so that you could "legally" enslave Indians who refused to agree with all the statements of the requerimiento. Notice the dire warning in the last paragraph to those who do not submit. Of course, not knowing the Spanish language, most Indians had no idea what transpired with the reading, but found themselves enslaved nonetheless. On behalf of the king and the queen, subjugators of barbarous peoples, we, their servants, notify and make known to you as best we are able, that God, Our Lord, living and eternal, created the heavens and the earth, and a man and a woman, of whom you and we and all other people of the world were, and are, the descendants. Because of the great numbers of people who have come from the union of these two in the five thousand year, which have run their course since the world was created, it became necessary that some should go in one direction and that others should go in another. Thus they became divided into many kingdoms and many provinces, since they could not all remain or sustain themselves in one place.

Of all these people God, Our Lord, chose one, who was called Saint Peter, to be the lord and the one who was to be superior to all the other people of the world, whom all should obey. He was to be the head of the entire human race, wherever men might exist. God gave him the world for his kingdom and jurisdiction. God also permitted him to be and establish himself in any other part of the world to judge and govern all peoples, whether Christian, Moors, Jew, Gentiles, or those of any other sects and beliefs that there might be. He was called the Pope. One of the past Popes who succeeded Saint Peter, as Lord of the Earth gave these islands and Mainland's of the Ocean Sea [the Atlantic Ocean] to the said King and Queen and to their successors, with everything that there is in them, as is set forth in certain documents which were drawn up regarding this donation in the manner described, which you may see if you so desire.

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CONTEMPORARY REACTIONS TO THE DOCTRINE OF DISCOVERY

[To open these documents, RIGHT CLICK the link and then Open Hyperlink ]

Francisco de Vitoria:

https://www.classicsofstrategy.com/2015/07/relectiones-by-francisco-de-vitoria-1538-1539.html

Bartolome de las Casas:

http://www.gutenberg.org/cache/epub/20321/pg20321-images.html

Letters Patent to Sir Humfrey Gylberte June 11, 1578. (1)
Elizabeth by the grace of God Queene of England, &c. To all people to whom these presents shall come, greeting.

Know ye that of our especiall grace, certaine science and meere motion, we have given and granted, and by these presents for us, our heires and successours, doe give and graunt to our trustie and welbeloved servaunt Sir Humphrey Gilbert of Compton, in our castle of Devonshire Knight, and to his heires and assignee for ever, free libertie and licence from time to time, and at all times for ever hereafter, to discover, finde, search out, and view such remote, heathen and barbarous lands, countrie and territories not actually possessed of any Christian prince or people, as to him, his heirs & assignee, and to every or any of them, shall seeme good; and the fame to have, hold, occupie and enjoy to him, his heires and assignee for ever, with all commodities, jurisdictions, and royalties both by sea and land; and the said sir Humfrev and all such as from time to time by licence of us, our heiress and successours, shall goe and travell thither, to inhabits or romaine there, to build and fortifie at the discretion of the sayde Sir Humfrey, and of his heires and assignee, the statutes or actes of Parliament made against Fugitives, or against such as shall depart, romaine or continue out of our Realme of England without licence, or any other acte, statute, lawe or matter whatsoever to the contrary in any wise notwithstanding. And wee doe likewise by these presents, for US, our heires and successours, give full authoritie and power to the saide Sir Humfrey, his heires and assignee, and every of them, that tree and they, and every of any of them, shall and may at all and every time and times hereafter, have, take and lead in the same voyages, to travell thitherward, and to inhabits there with him, and every or any of them, such and so many of our subjects as shall willingly accompany him and them, and every or any of them, with sufficient shipping and furniture for their transportsations, so that none of the same persons, nor any of them be such as hereafter shall be specially restrained by us, our heires and successors. And further, that he the said Humfrey, his heires and assignee, and every or any of them shall have, hold, occupie and enjoy to him, his heires and assignee, and every of them for ever, all the soyle of all such lands, countries, & territories so to be discovered or possessed as aforesaid, and of all Cities, Castles, Townes and Villages, and places in the same, with the rites, royalties and jurisdictions, as well marine as other, within sayd lands or countrieys of the seas thereunto adjoyning, to be had or used with ful power to dispose thereof, & of every part thereof in fee simple or otherwise, according to the order of the laws of England, as near as the same conveniently may be, at his, and their will & pleasure, to any person then being, or that shall romaine within the allegiance of us, our heires and successours, paying unto us for all services, dueties and demaunds, the fift part of all the oare of gold and silver, that from time to time, and at all times after such discoverie, subduing and possessing shall be there gotten: all which hands, countrieys and territories, shall for ever bee holden by the said Sir Humfrey, his heires and assignee of us, our heires and successors by homage, and by the sayd payment of the sayd fift part before reserved onely for all services.

And moreover, we doe by these presents for us, our heires and successours, give and graunt licence to the sayde Sir Humfray Gilbert, his heires or assignee, and to every of them, that tree and they, and every or any of them shall, and may from time to time, and all times for ever hereafter, for his and their defence, encounter, expulse, repell and resift, as well by Sea as by land, and by all other ways whatsoever, all and every such person and persons whatsoever, as without the special licence and liking of the sayd Sir Humfrey, and of his heires and assignee, shall attempt to inhabits within the sayd countrieys, or any of them, or within the space of two hundreth leagues nere to the place or places within such countrieys as aforesayed, if they shall not bee before planted or inhabited within the limiter aforesayd, with the subjects of any Christian prince, being amitie with her-Majesty, where the said sir Humfrey, his heires or assignee, or any of them, or his, or their or any of their associates or companies, shall within sixe yeeres next ensuing, make their dwellings and abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy either by Sea or land, the said sir Humfrey, his heires or assignee, or any of them, or his, or their, or any of their companies: giving and graunting by these presents, further power and authorite to the sayd sir Humfrey, his heires and assignee, and every of them from time to time, and at all times for ever hereafter to take and surprise by all maner of meanes whatsoever all and every person and
persons, with their shipper, vessels, and other goods and furniture, which without the licence of the sayd sir Humfrey, or his heires or assignee as aforesayd, shall bee found traffiqing into any harbouro or harboursoughs creeke or creekes within the limites aforesayde, the subjects of our Realmes and dominions, and all other persons in amitie with us, being driven by force of tempest or shipwrecke onely excepted, and those persons and every of them with their ships, vessels, goods, and furniture, to detaine and possesse, as of good and lawful prize, according to the discretion of him the sayd sir Humfrey, his heires and assignee, and of every or any of them. And for uniting in more perfect league and amitie of such countreys, lances and territories so to bee possessed and inhabited as aforesayd, with our Realmes of England and Ireland, and for the better encouragement of men to this enterprise: wee doe by these presents graunt, and declare, that all such countreys so hereafter to bee possessed and inhabited as aforesayd, from thencefoorth shall bee of the allegiance of us' our heires and successours. And wee doe graunt to the sayd sir Humfrey, his heires and assignee, and to all and every of them, and to all and every other person and persons, being of our allegiance, whose names shall be noted or entred in some of our courts of Record, within this our Realme of England, and that with the assent of the said sir Humfrey, his heires or assignee, shall nowe in this journey for discoverie, or in the second journey for conquest hereafter, travel to such lands, countries and territories as aforesayd, and to their and every of their heires: that they and every or any of them being either borne within our sayd Realmes of England or Ireland, or within any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, countreys and territories, with such licence as aforesayd, shall and may have, and enjoy all the privileges of free denizens and persons native of England, and within our allegiance: any law, custome, or usage to the contrary notwithstanding

And forasmuch, as upon the finding out, discovering and inhabiting of such remote lands, countreys and territories, as aforesayd, it shall be necessarie for the safetie of all men that shall adventure themselves in those journeys or voyages, to determine to live together In Christian peace and civil quietnesse each with other, whereby every one may with more pleasure and profit, enjoy that whereunto they shall attaine with great Paine and perill: wee for us, our heires and successours are likewise pleased and contented, and by these presents doe give and graunt to the sayd sir Humfrey and his heires and assignee for ever, that he and they, and every or any of them, shall and may, from time to time, for ever hereafter within the sayd mentioned remote lands and countreys, and in the way by the Seas thither, and from thence, have full and meere power and authoritie to correct, punish, pardon, governe and rule by their, and every or any of their good discretions and policies, as well in causes capitall or criminall, as chill, both marine and other, all such our subjects and others, as shall from time to time hereafter adventure themselves in the sayd journeys or voyages habitative or possessive, or that shall at any time hereafter inhabite any such lands, countreys or territories as aforesayd, or that shall abide within two hundred leagues of any sayd place or places, where the sayd sir Humfrey or his heires, or assignee, or any of them, or any of his, or their associate or companies, shall inhabite within sixe yeers next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall be by him the said sir Humfrey, his heires and assignee, or every, or any of them, devised or established for the better governement of the said people as aforesayd: so alwayes that the sayd statutes, lawes and ordinances may be as neere as conveniently may, agreeable to the forme of the lawes & pollicy of England: and also, that they be not against the true Christian faith or religion now professed in the Church of England, nor in any wise to withdraw any of the subjects or people of those lands or places from the allegiance of us, our heires or successours, as their immediate Soveraignes under God. And further we do by these presents for us, our heires and successours, give and graunt full power and authority to our trustie and well-beloved counsellor, sir William Cecill Knight, lord Burleigh, our high treasurer of England, and to the lord treasurer of England of us, for the time being and to the privie counsell of us, our heires and successours, or any fours of them, for the time being that he, they, or any four of them, shall, and may from time to time, and at all times hereafter, under his or their handes or scales by vertue of these presents, authorize and licence the sayd sir Humfrey Gilbert, his heires and assignee, and every or any of them by him and themselves, or by their or any of their sufficient attorneys, deputies, officers, ministers, factors and
servants, to imbarke and transport out of our Realmes of England and Ireland, all, or any of his or their goods, and all or any of the Roods or his or their associates and companies, and every or any of them, with such other necessaries and commodities of any of our Realmes, as to the said lord treasurer or foure of the privie counsel! of us, our heires, or successours for the time being, as aforesayd, shall be from time to time by his or their wisedoms or discretions thought meete and convenient for the better reliefe and supportation of him the sayd sir Humfrey, his heires and assignee, and every or any of them, and his and their, and every or any of their said associates and companies, any act, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee doe hereby declare to all Christian Kings, princes and states, that if the said sir Humfrey, his heires or assignee, or any of them, or any other by their licence or appointment, shall at any time or times hereafter robbe or spoile by Sea or by land, or doe any act of unjust and unlawful hostilitie to any of the Subjects of us, our heires, or successours, or any of the Subjects of any King, prince, ruler, governour or state being then in perfect league and amitie with us, our heires or successours: and that upon such injurie, or upon just complaint of any such prince, ruler, governour or state, or their subjects, wee, our heires or successours shall make open proclamation within any of the portes of our Realme of England commodious, that the said Sir Humfrey, his heires or assignee or any other to whom these our Letters patents may extend, shall within the terme to be limited by such proclamations, make such restitution and satisfaction of all such injuries done, so as both we and the said Princes, or others so complaying, may horde us and themselves fully contented: And if the saide Sir Humfrey, his heires and assignee, shall not make or cause to bee made satisfaction accordingly, within such time so to be limited; that then it shall be lawfull to us, our heires and successors, to put the said Sir Humfrey, his heires and assignee, and adherents, and all the inhabitants of the said places to be discovered as is aforesaide, or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the said Sir Humfrey, and his heires, assignes, adherents and others so to be put out, and the said places within their habitation, possession and rule, shall be out of our protection and allegiance, and free for all princes and others to pursue with hostilitie as being not our Subjects, nor by us any way to be advowed, maintained or defended, nor to be holden as any of ours, nor to our protection, dominion or allegiance any way belonging, for that expresse mention, &c. In witnesse whereof, &c. Witnesse ourselfe at Westminster the 11, day of June, the twentieth yeere of our raigne. Anno Dom 1578.

PER IPSAM REGINAM, &C.

ELIZABETH by the Grace of God of England, Fraunce and Ireland Queene, defender of the faith, &c. To all people to whome these presents shall come, greeting.

Knowe yee that of our especial grace, certaine science, and meere motion, we haue given and granted, and by these presents for us, our heires and successors, we giue and grant to our trustie and welbeloued seruant Walter Ralegh, Esquire, and to his heires and assignee for euer, free libertie and licence from time to time, and at all times for ever hereafter, to discover, search, finde out, and view such remote, heathen and barbarous lands, countries, and territories, not actually possessed of any Christian Prince, nor inhabited by Christian People, as to him, his heires and assignee, and to every or any of them shall seeme good, and the same to haue, horde, occupie and enjoy to him, his heires and assignee for euer, with all prerogatives, commodities, jurisdictions, royalties, privileges, franchises, and preheminences, thereto or therabouts both by sea and land, whatsoever we by our letters patents may graunt, and as we or any of our noble progenitors haue heretofore graunted to any person or persons, bodies politique.or corporate: and the said Walter Ralegh, his heires and assignee, and all such as from time to time, by licence of us, our heires and successors, shall goe or trauaile thither to inhabite or remaine, there to build and fortifie, at the discretion of the said Walter Ralegh, his heires and assignee, the statutes or acte of Parliament made against fugitives, or against such as shall depart, romaine or continue out of our Realme of England without licence, or any other statute, acte, lawe, or any ordinance whatsoever to the contrary in anywise notwithstanding.

And we do likewise by these presents, of our especial grace, meere motion, and certain knowledge, for us, our heires and successors, giue and graun
t full authoritie, libertie and power to the said Walter Salem, his heires and assignee, and every of them, that he and they, and euery or any of them, shall and may at all and euery time, and times hereafter, haue, take, and leade in the saide voyage, and trauaile thitherward, or to inhabit there with him, or them, and euyry or any of them, such and so many of our subjects as shall willingly accompanie him or them, and euyry or any of them to whom also we doe by these presents, giue full libertie and authority in that behalfe, and also to hare, take, and employ, and vse sufficient shipping and furniture for the Transportations and Nauigations in that behalfe, so that none of the same persons or any of them, be such as hereafter shall be restrained by us, our heires, or successors.

And further that the said Walter Ralegh, his heires and assignee, and euery of them, shall haue holde, occupie, and enioye to him, his heires and assignee, and euery of them for ever, all the soile of all such lands, territories, and Countreis, so to bee discovered and possessed as aforesaide, and of all such Cities, castles, townes, villages, and places in the same, with the right, royalties, franchises, and jurisdictions, as well marine as other within the saide lances, or Countreis, or the seas thereunto adioyning, to be had, or used, with full power to dispose thereof, and of euery part in fee-simple or otherwise, according to the order of the lawes of England, as neere as the same conveniently may bee, at his, and their will and pleasure, to any persons then being, or that shall romaine within the allegiance of us, our heires, and successors: resewing always to us our heires, and successors, for all services, duties, and demaundes, the lift part of all the oare of golde and siluer, that from time to time, and at all times after such discoverie, subduing and possessing, shal be there gotten and obtained: All which lances, Countreis, and territories, shall for ever be holden of the said Walter Ralegh, his heires and assignee, of us, our heires and successors, by homage, and by the said payment of the said fift part, resewed onely for all services.

And moreover, we doe by these presents, for us, our heires and. successors, giue and graunt licence to the said Walter Ralegh, his heirs, and assignee, and euery of them, that he, and they, and euyry or any of them, shall and may from time to time, and at all times for euer hereafter, for his and their defence, encounter and expulse, repel and resist as well by sea as by lance, and by all other wayes whatsoever, all, and every such person and persons whatsoever, as without the especiall liking and licence of the saide Walter Ralegh, and of his heires and assignee, shall attempt to inhabite within the said Countreis, or
any of them, or within the space of two hundred leagues near to the place or places within such Country as aforesaid (if they shall not be before planted or inhabited within the limits as aforesaid with the subjects of any Christian Prince being in amity with us) where the said Walter Ralegh, his heires, or assignee, or any of them, or his, or her, or any of their associates or company, shall within nine yeares (next ensuing) make their dwellings or abidings, or that shall enterprise or attempt at any time hereafter unlawfully to annoy, either by sea or lance, the said Walter Ralegh, his heires or assignee. or any of them, or his or their, or any of his or their companies giving, and granting by these presents further power and authoritie, to the said Walter Ralegh, his heires and assignee, and every of them from time to time, and at all times for ever hereafter, to take and surprise by all manner of meanes whatsoever, all and every those person or persons, with their shipper, vessels, and other goods and furniture, which without the licence of the said Walter Ralegh, or his heires, or assignee, as aforesaid, shall be found trafiquing into any harbour or harbors, creeke, or creekes, within the limits aforesaid, (the subjects of our Realms and Dominions, and all other persons in amity with us, trading to the Newfound land for fishing as heretofore they have commonly used, or being driven by force of a tempest, or shipwracke onely excepted:) and those persons, and every of them, with their shippes, vessels, goods and furniture to detain and possess as of good and lawfull prize, according to the discretion of him the said Walter Ralegh, his heires, and assignee, and every of them. And for uniting in more perfect league and amity, of such Country, lances, and territories so to bee possessed and inhabited as aforesaid with our Realmes of Englande, and Ireland, and the better encouragement of men to these enterprises: we do by these presents, grant and declare that all such Country, so hereafter to be possessed and inhabited as is aforesaid, from thenceforth shall be of the allegiance of vs. our heires and successours. And wee doe grant to the said Walter Ralegh, his heires, and assignee, and every of them, and to all and every of them, and to all and every other person, and persons being of our allegiance, whose names shall be noted or entered in some of our Courtes of record within our Realme of Englande, that with the assent of the said Walter Ralegh, his heires or assignes, shall in his journeis for discouerie, or in the iournies for conquest, hereafter trauelle to such lands, countreis and territories, as aforesaid, and to their, and to every of their heires, that they, and every or any of them, being either borne within our saide Realmes of Englande, or Irelande or in any other place within our allegiance, and which hereafter shall be inhabiting within any the lands, Countreis, and territories, with such licence (as aforesaid) shall and may haue all the priviledges of free Denizens, and persons native of England, and within our allegiance in such like ample manor and forme, as if they were borne and personally resident within our saide Realme of England, any lawe, custome, or vsage to the contrary notwithstanding

And for asmuch as upon the finding out, discovering, or inhabiting of such remote lands, countreis, and territories as aforesaid, it shall be necessary for the saftie of al men, that shal adventure them selues in those marines or voyages, to determine to line together in Christian peace, and ciuil quietnes ech with other, whereby every one may with snore pleasure and profit enjoy that whereunto they shall attaine with great Painde and peril, we for vs. our heires and successors, are likewise pleased and contented, and by these presents doe giue and grant to the said Walter Ralegh, his heires and assignee for ever, that tree and they, and every or any of them, shall and may from time to time for ever hereafter, within the said mentioned remote lances and Countreis in the way by the seas thither, and from thence, inane full and meere power and authoritie to correct, punish, pardon, gouerne, and rule by their and every or any of their good discretions and pollicies, as well in causes capital, or criminal!, as ciuil, both marine and other all such our subjects as shall from time to time adventure themselves in the said iournies or voyages, or that shall at any time hereafter inhabithe any such lances, countreis, or territories as aforesaid, or shall abide within 200. leagues of any of the saide place or places, where the said Walter Ralegh, his heires or assignee, or any of them, or any of his or their associates or companies, shall inhabits within 6. yeeres next ensuing the date hereof, according to such statutes, lawes and ordinances, as shall bee by him the saide Walter Ralegh his heires and assignee, and every or any of them deuised, or established, for the better government of the said people as aforesaid. So always as the said statutes, lawes, and ordinances may be as neere as conveniently may be, agreeable to the forme of the lawes, statutes, gouvernement, or
policie of England, and also so as they be not against the true Christian faith, nowe professed in the Church of England, nor in any wise to withdraws any of the subjects or people of those lances or places from the allegiance of vs. our heires and successours, as their immediate Soueraigne vnder God.

And further, wee doe by these presents for vs. our heires and successors, giue and graunt full power and authoritie to our trustie and welbeloued counsilour sir William Cicill knight, Lorde Burghley, our high Treasourer of England, and to the Lorde Treasourer of England, for vs. our heires and successors for the time being, and to the priuie Counsell, of us, our heirs and successours, or any foure or more of them for the time being, that tree, they, or any fours or more of them, shall and may from time to time, and at all times hereafter, under his or their handes or scales by vertue of these presents, authorise and licence the saide Walter Ralegh, his heires and assignee. and euery or any of them by him, and by themselves, or by their, of any of their sufficient Atturnies, deputys, officers, ministers, factors. and servants, to imbarke and transport out of our Realme of England and Ireland, and the Dominions thereof all, or any of his, or their goods, and all or any the goods of his and their associate and companies, and euery or any of them, with such other necessaries and commodities of any our Realmes, as to the saide Lorde Treasourer, or foure or more of the priuie Counsaile, of vs. our heires and successors for the time being (as aforesaide) shalbe from time to time by his or their wisdomes, or discretions thought meete and convenient, for the better reliefe and supportation of him the saide Walter Ralegh, his heires, and assignee, and euery or any of them, and of his or their or any of their associate and companies, any acte, statute, lawe, or other thing to the contrary in any wise notwithstanding.

Provided alwayes, and our will and pleasure is, and wee do hereby declare to all Christian kings, princes and states, that if the saide Walter Ralegh, his heires or assignee, or any of them, or any other lay their licence or appointment, shall at any time or times hereafter. robbe or spoil by sea or by lance, or do any acte of unjust or unlawful hostilitie, to any of the subjects of vs. our heires or successors, or to any of the subjects of any the kings, princes, rulers, governours, or estates, being then in perfect league and amitie with us, our heires and successors, and that upon such injury, or upon lust complaint of any such prince, ruler, governoir, or estate, or their subjects, wee, our heires and successours, shall make open proclamation within any the Fortes of our Realme of England, that the saide Walter Ralegh, his heires and assignee, and adherents, or any to whome these our letters patents may extende, shall within the termes to be Emitted, by such proclamation, make full restitution, and satisfaction of all such inJuries done, so as both we and the said princes, or other so complaying, may horde vs and themselves fully contented. And that if the saide Walter Ralegh, his heires and assignee, shall not make or cause to be made satisfaction accordingly, within such time so to be limited, that then it shall be lawfull to us our heires and successors, to put the saide Walter Ralegh, his heires and assignee and adherents, and all the inhabitants of the said places to be discovered (as is aforesaide) or any of them out of our allegiance and protection, and that from and after such time of putting out of protection the said Walter Rategh, his heires, assignee and adherents, and others so to be put out, and the said places within their habitation, possession and rule, shal be out of our allegiance and protection, and free for all princes and others, to pursue with hostilitie, as being not our subjects, nor by vs any way to be avouched, maintained or defended, nor to be holden as any of ours, nor to our protection or dominion, or allegiance any way belonging, for that expresse mention of the cleer yeerely value of tile certaintie of the premisses, or any part thereof, or of any other gift, or grant by vs. or any our progenitors, or predecessors to the said Walter Ralegh, before this time made in these presents be not expressed, or any other grant, ordinance, provision, proclamation, or restraint to the contrarey thereof, before this time giuen, ordained, or provided, or any other thing, cause, or matter whatsoever, in any wise notwithstanding. In witness whereof, we haue caused these our letters to be made patents. Witnesse our selues, at Westminster, the 25. day of March, in the sixe and twentieth yeere of our Raigne.Source:
Charter of Acadia Granted by Henry IV of France to Pierre du Gast, Sieur de Monts; December 18, 1603

Henry, by the grace of God, King of France and of Navarre:

To our well-beloved and faithful advisors the officers of our Admiralty of l'Ormandie, Bretagne, Picardie, and Guienne, and to each one of them in their own right, and in the extent of their powers and jurisdictions, Greetings. We have, for many important reasons, ordered, commissioned, and established the Lord of Monts, gentleman ordinary of our chamber, our lieutenant-general, to people and inhabit the lands, shores, and countries of Acadia, and other surrounding areas, stretching from the fortieth parallel to the forty-sixth, and there to establish our authority, and otherwise to there settle and maintain himself in such a way that our subjects will henceforth be able to be received, to frequent, to dwell there, and to trade with the savage inhabitants of the said places as we have most expressly declared in our letters patents sent and delivered for this effect to the said Lord of Monts the eighth day of last November, following the conditions and articles, in consideration of which he is charged with the conduct and execution of this undertaking. To facilitate which and to those who are therein joined with him, and to give them some means and facility to support its expenses we have been pleased to promise and assure them that it will be permitted to no other of our subjects, except to those who enter into association with him, to make the said expenditures to trade in pelts and other merchandises during ten years in the lands, countries, ports, rivers, and routes in the expanse of his jurisdiction, which we wish to take place. We, for these reasons and other contributing considerations, command and order you that you act, each of you, in the extent of your powers, jurisdictions, and boundaries in our behalf, since from our full power and royal authority we very expressly prohibit and forbid all merchants, masters, and captains of ships, sailors and others of our subjects of whatever state, quality, and condition they may be, all others, nevertheless, and apart from those who have entered into association with the said Lord of Monts for the said undertaking, according to the articles of these by us decreed as it is stated, to equip any ships and in them to go or to send for the purpose of trading or bartering in skins, and other things with the savages, to frequent, to negotiate, and to communicate during the said time of ten years, from the cape of Rane as far as the fortieth parallel, including the entire coast of Acadia, the land, and Cape Breton, the bay of Saint Cler, of Chaleur, the included islands, Gaspay, Chichedec, Mesamichi, Lesquemin, Tadoussac, and the river of Canada, one bank as well as the other, and all the bays and rivers which enter the interior of the said coasts, under pain of disobedience and the complete confiscation of the vessels, men, arms, and merchandise to the profit of the said Lord of Monts and of his associates, and of thirty thousand pounds fine. For the assurance and acquittal of which, and for the coercion and punishment of their disobedience, you will be permitted, as we have also permitted and do permit the said Lord of Monts and his associates, to seize, apprehend, and arrest all those who go against our present prohibition and command as well as their vessels, merchandise, arms, and provisions, to take and remit them into the hands of justice, and to be prosecuted, both against the persons as well as against the goods of the said disobedient ones in the manner that it applies; which we desire and which we order and command you to have immediately published and read in all the public places of your powers and jurisdictions or where you will judge the need to be so that none of our said subjects may claim cause of ignorance, so that each one may obey and conform to this our will to do which we have given and do give you power, commission, and special command, since such is our pleasure. Given in Paris the eighteenth day of December in the year of grace one thousand six hundred and three, and of our reign the fifteenth, thus signed Henry. And lower, by the King, Potier. And sealed with the great seal of yellow wax.
The First Virginia Charter (April 10, 1606)

James, by the grace of God [King of England, Scotland, France, and Ireland, Defender of the Faith], etc. Whereas our loving and well-disposed subjects, Sir Thomas Gates and Sir George Somers, Knights; Richard Hackluit, Clarke, Prebendarie of Westminster; and Edward Maria Winghefeilde, Thomas Hanam and Raleighe Gilberde, Esquiers; William Parker and George Popham, Gentlemen; and divers others of our loving subjects, have been humble suitors unto us that wee woulde vouchsafe unto them our licence to make habitacion, plantacion and to deduce a colonie of sondrie of our people into that parte of America commonly called Virginia, and other parts and territories in America either appertaining unto us or which are not nowe actuallie possessed by anie Christian prince or people, scituate, lying and being all along the sea coastes between fower and thirtie degrees of northerly latitude from the equinoctiall line and five and fortie degrees of the same latitude and in the maine lande betwene the same fower and thirtie and five and fourtie degrees, and the ilandes thereunto adjacente or within one hundred miles of the coaste thereof;

And to that ende, and for the more speedy accomplisheemente of theire saide intended plantacion and habitacion there, are desirous to devide themselves into two severall colonies and companies, the one consisting of certaine Knightes, gentlemen, marchanttes and other adventurers of our cittie of London, and elsewhere, which are and from time to time shalbe joined unto them which doe desire to begin theire plantacions and habitacions in some fitt and conveniente place between fower and thirtie and one and fortie degrees of the said latitude all alongest the coaste of Virginia and coastes of America aforesaid and the other consisting of sondrie Knightes, gentlemen, merchanttes, and other adventurers of our citties of Bristoll and Exeter, and of our towne of Plymouthe, and of other places which doe joine themselves unto that colonie which doe desire to beginn theire plantacions and habitacions in some fitt and convenient place betweene eighte and thirtie degrees and five and fortie degrees of the saide latitude all alongst the saide coaste of Virginia and America as that coaste lieth;

Wee, greatly commending and graciously accepting of theire desires to the furtherance of soe noble a worke which may, by the providence of Almighty God, hereafter tende to the glorie of His Divine Majestie in propagating of Christian religion to suche people as yet live in darkenesse and miserable ignorance of the true knowledge and worshippe of God and may in tyme bring the infidels and salvages living in those parts to humane civilitie and to a setled and quiet govermente, doe by theise our lettres patents graciously accepte of and agree to theire humble and well intended desires;

And doe, therefore, for us, our heires and successors, grannte and agree that the saide Sir Thomas Gates, Sir George Sumers, Richard Hackluit and Edwarde Maria Winghefeilde, adventurers of and for our cittie of London, and all suche others as are or shalbe joined unto them of that Colonie, shalbe called the Firste Colonie, and they shalbe and may beginne theire saide firste plantacion and seate of theire firste aboade and habitacion at anie place upon the saide coaste of Virginia or America where they shall thincke fitt and conveniente betweene the saide fower and thirtie and one and fortie degrees of the saide latitude; and that they shalbe and have all the landes, woods, soile, groundes, havens, ports, rivers, mines, mineralls, marshes, waters, fishinges, commodities and hereditamentes whatsoever, from the said first seate of theire plantacion and
habitacion by the space of fiftie miles of Englishe statute measure all alongest the saide coaste of Virginia and America towards the weste and southe weste as the coaste lieth, with all the islandes within one hundred miles directlie over againste the same sea coaste; and alsoe all the landes, soile, groundes havens, ports, rivers, mines, mineralls, woods, marrishes [marshes], waters, fishinges, commodities and hereditamentes whatsoever, from the saide place of theire firste plantacion and habitacion for the space of fiftie like Englishe miles, all alongest the saide coaste of Virginia and America towards the easte and northeaste [or toward the north] as the coaste lieth, together with all the islandes within one hundred miles directlie over againste the same sea coaste; and alsoe all the landes, woods, soile, groundes, havens, portes, rivers, mines, mineralls, marrishes, waters, fishinges, commodities and hereditamentes whatsoever, from the same fiftie miles everie waie on the sea coaste directly into the maine lande by the space of one hundred like Englishe miles; and shall and may inhabit and remaie there; and shall and may alsoe builde and fortifie within anie the same for theire better safegarde and defence, according to theire best discrecions and the direction of the Counsell of that Colonie; and that noe other of our subjectes shalbe permitted or suffered to plante or inhabit behinde or on the backside of them towards the maine lande, without the expresse licence or consente of the Counsell of that Colonie thereunto in writing firste had or obtained.

And wee doe likewise for us, our heires and successors, by theise presentes grantte and agree that the saide Thomas Hannam and Raleighe Gilberde, William Parker and George Popham, and all others of the towne of Plymouthe in the countie of Devon, or elsewhere, which are or shalbe joined unto them of that Colonie, shalbe called the Seconde Colonie; and that they shall and may beginne theire saide firste plantacion and seate of theire first aboade and habitacion at anie place upon the saide coaste of Virginia and America, where they shall thincke fitt and conveniente, betweene eighte and thirtie degrees of the saide latitude and five and fortie degrees of the same latitude; and that they shall have all the landes, soile, groundes, havens, ports, rivers, mines, mineralls, woods, marishes, waters, fishinges, commodities and hereditaments whatsoever, from the firste seate of theire plantacion and habitacion by the space of fiftie like Englishe miles, as is aforesaide, all alongeste the saide coaste of Virginia and America towards the weste and southwest, or towards the southe, as the coaste lieth, and all the islandes within one hundred miles directlie over againste the saide sea coaste; and alsoe all the landes, soile, groundes, havens, portes, rivers, mines, mineralls, woods, marishes, waters, fishings, commodities and hereditaments whatsoever, from the saide place of theire firste plantacion and habitacion for the space of fiftie like miles all alongest the saide coaste of Virginia and America towards the easte and northeaste or towards the northe, as the coaste lieth, and all the islandes alsoe within one hundred miles directly over againste the same sea coaste; and alsoe all the landes, soile, groundes, havens, portes, rivers, woods, mines, mineralls, marishes, waters, fishings, commodities and hereditaments whatsoever, from the same fiftie miles everie waie on the sea coaste, directlie into the maine lande by the space of one hundred like Englishe miles; and shall and may inhabit and remaie there; and shall and may alsoe builde and fortifie within anie the same for theire better saufegarde according to theire beste discrecions and the direction of the Counsell of that Colonie; and that none of our subjectes shalbe permitted or suffered to plante or inhabit behinde or on the backe of them towards the maine lande without the expresse licence or consente of the Counsell of that Colonie, in writing thereunto, firste had and obtained.
Provided alwaies, and our will and pleasure herein is, that the plantacion and habitation of suche of the saide Colonies as shall laste plante themselves, as aforesaid, shall not be made within one hundred like Englishe miles of the other of them that firste beganne to make theire plantacion, as aforesaid.

And wee doe alsoe ordaine, establishe and agree for [us], our heires and successors, that eache of the saide Colonies shall have a Counsell which shall governe and order all matters and causes which shall arise, growe, or happen to or within the same severall Colonies, according to such lawes, ordinannces and instructions as shalbe in that behalfe, given and signed with our hande or signe manuell and passe under the Privie Seale of our realme of Englane; eache of which Counsells shall consist of thirteene parsons and to be ordained, made and removed from time to time according as shalbe directed and comprised in the same instructions; and shall have a severall seale for all matters that shall passe or concerne the same severall Counsells, eache of which seales shall have the Kings armes engraven on the one side there of and his pourtraiture on the other; and that the seale for the Counsell of the saide Firste Colonie shall have engraven rounde about on the one side theise wordes: Sigillum Regis Magne Britanie, Francie [et] Hibernie; on the other side this inscription rounde about: Pro Consillio Prime Colonie Virginie.

And the seale for the Counsell of the saide Seconde Colonie shall alsoe have engraven rounde about the one side thereof the foresaide wordes: Sigillum Regis Magne Britanie, Francie [et] Hibernie; and on the other side: Pro Consilio Secunde Colonie Virginie.

And that alsoe ther shalbe a Counsell established here in Englane which shall in like manner consist of thirteen parsons to be, for that purpose, appointed by us, our heires and successors, which shalbe called our Counsell of Virginia; and shall from time to time have the superior managing and direction onelie of and for all matters that shall or may concerne the govermente, as well of the said severall Colonies as of and for anie other parte or place within the aforesaide precinctes of fower and thirtie and five and fortie degrees abovementioned; which Counsell shal in like manner have a seale for matters concerning the Counsell [or Colonies] with the like armes and portraiture as aforesaide, with this inscription engraven rounde about the one side: Sigillum Regis Magne Britanie, Francie [et] Hibernie; and rounde about the other side: Pro Consilio Suo Virginie.

And more over wee doe grannte and agree for us, our heires and successors, that the saide severall Counsells of and for the saide severall Colonies shall and lawfully may by vertue hereof, from time to time, without interuption of us, our heires or successors, give and take order to digg, mine and searche for all manner of mines of goulde, silver and copper, as well within anie parte of theire saide severall Colonies as of the saide maine landes on the backside of the same Colonies; and to have and enjoy the goulde, silver and copper to be gotten there of to the use and behoofe of the same Colonies and the plantacions thereof; yeilding therefore yeerelie to us, our heires and successors, the fifte parte onelie of all the same goulde and silver and the fifteenth parte of all the same copper soe to be gotten or had, as is aforesaid, and without anie other manner of profitt or accompte to be given or yeilded to us, our heires or successors, for or in respecte of the same.

And that they shall or lawfullie may establishe and cause to be made a coine, to passe currant there betwene the people of those severall Colonies for the more ease of trafique and bargaining
betweene and amongst them and the natives there, of such mettall and in such manner and forme as the same severall Counsells there shall limitt and appointe. And wee doe likewise for us, our heires and successors, by these presents give full power and auctoritie to the said Sir Thomas Gates, Sir George Sumers, Richarde Hackluite, Edwarde Maria Winghfeilde, Thomas Hannam, Raleighe Gilberde, William Parker and George Popham, and to everie of them, and to the saide severall Companies, plantacions and Colonies, that they and everie of them shall and may at all and everie time and times hereafter have, take and leade in the saide voyage, and for and towards the saide severall plantacions and Colonies, and to travell thitherwarde and to abide and inhabit there in everie of the saide Colonies and plantacions, such and somanie of our subjectes as shall willinglie accompanie them, or anie of them, in the saide voyages and plantacions, with sufficiente shipping and furniture of armour, weapon, ordonnance, powder, victall, and all other things necessarie for the saide plantacions and for theire use and defence there: provided alwaies that none of the said parsons be such as hereafter shalbe speciallie restrained by us, our heires or successors.

Moreover, wee doe by theise presents, for us, our heires and successors, give and grannte licence unto the said Sir Thomas Gates, Sir George Sumers, Richarde Hackluite, Edwarde Maria Winghfeilde, Thomas Hannam, Raleighe Gilberde, William Parker and George Popham, and to everie of the said Colonies, that they and everie of them shall and may, from time to time and at all times for ever hereafter, for theire severall defences, encounter or expulse, repell and resist, aswell by sea as by lande, by all waies and meanes whatsoever, all and everie suche parson and parsons as without especiall licence of the said severall Colonies and plantacions shall attempte to inhabit within the saide severall precincts and limitts of the saide severall Colonies and plantacions, or anie of them, or that shall enterprise or attempt at anie time hereafter the hurte, detrimente or annoyance of the saide severall Colonies or plantacions.

Giving and grannting by theise presents unto the saide Sir Thomas Gates, Sir George Somers, Richarde Hackluite, and Edwarde Maria Winghfeilde, and theire associates of the said Firste Colonie, and unto the said Thomas Hannam, Raleighe Gilberde, William Parker and George Popham, and theire associates of the saide Second Colonie, and to everie of them from time to time and at all times for ever hereafter, power and auctoritie to take and surprize by all waies and meanes whatsoever all and everie parson and parsons with theire shippes, vessels, goods and other furniture, which shalbe founde traffiqueing into anie harbor or harbors, creeke, creekes or place within the limitts or precincts of the saide severall Colonies and plantacions, not being of the same Colonie, untill such time as they, being of anie realmes or dominions under our obedience, shall paie or agree to paie to the handes of the Tresorer of the Colonie, within whose limitts and precincts theie shall soe traffique, twoe and a halfe upon anie hundred of anie thing soe by them traffiqued, boughte or soulde; and being strangers and not subjects under our obeyssance, untill they shall paie five upon everie hundred of suche wares and commoditie as theie shall traffique, buy or sell within the precincts of the saide severall Colonies wherein theie shall soe traffique, buy or sell, as aforesaide; which sommes of money or benefitt, as aforesaide, for and during the space of one and twentie yeres nexte ensuing the date hereof shalbe whollie imploied to the use, benefitt and behoofe of the saide severall plantacions where such traffique shalbe made; and after the saide one and twentie yeres ended the same shalbe taken to the use of us, our heires and successors by such officer and minister as by us, our heires and successors shalbe thereunto assigned or appointed.
And wee doe further, by theise presentes, for us, our heires and successors, give and grannte unto the saide Sir Thomas Gates, Sir George Sumers, Richarde Hackluit, and Edwarde Maria Winghfeilde, and to theire associates of the saide Firste Colonie and plantacion, and to the saide Thomas Hannam, Raleighge Gilberde, William Parker and George Popham, and theire associates of the saide Seconde Colonie and plantacion, that theie and everie of them by theire deputies, ministers and factors may transport the goods, chattells, armor, munition and furniture, needfull to be used by them for theire saide apparrrell, defence or otherwise in respecte of the saide plantacions, out of our realmes of Engleand and Ireand and all other our dominions from time to time, for and during the time of seaven yeres nexte ensuing the date hereof for the better releife of the said severall Colonies and plantacions, without anie custome, subsidie or other dutie unto us, our heires or successors to be yeilded or paide for the same.

Alsoe wee doe, for us, our heires and successors, declare by theise presentes that all and everie the parsons being our subjects which shall dwell and inhabit within everie or anie of the saide severall Colonies and plantacions and everie of theire children which shall happen to be borne within the limitts and precincts of the said severall Colonies and plantacions shall have and enjoy all liberties, franchises and immunitites within anie of our other dominions to all intents and purposes as if they had been abiding and borne within this our realme of Engleand or anie other of our saide dominions.

Moreover our gracious will and pleasure is, and wee doe by theise presents, for us, our heires and successors, declare and sette forth, that if anie parson or parsons which shalbe of anie of the said Colonies and plantacions or anie other, which shall trafficque to the saide Colonies and plantacions or anie of them, shall at anie time or times hereafter transporte anie wares, marchandize or commodities out of [any] our dominions with a pretence and purpose to lande, sell or otherwise dispose the same within anie the limitts and precincts of anie of the saide Colonies and plantacions, and yet nevertheless being at the sea or after he hath landed the same within anie of the said Colonies and plantacions, shall carrie the same into any other forraine countrie with a purpose there to sell or dispose of the same without the licence of us, our heires or successors in that behalfe first had or obtained, that then all the goods and chattels of the saide parson or parsons soe offending and transporting, together with the said shippe or vessell wherein suche transportacion was made, shall be forfeited to us, our heires and successors.

Provided alwaies, and our will and pleasure is and wee doe hereby declare to all Christian kinges, princes and estates, that if anie parson or parsons which shall hereafter be of anie of the said severall Colonies and plantacions, or anie other, by his, theire, or anie of theire licence or appointment, shall at anie time or times hereafter robb or spoile by sea or by lande or doe anie acte of unjust and unlawfull hostilite to anie the subjects of us, our heires or successors, or anie of the subjects of anie king, prince, ruler, governor or state being then in league or amitie with us, our heires or successors, and that upon suche injurie or upon juste complaite of such prince, ruler, governor or state or their subjects, wee, our heires or successors, shall make open proclamation within anie the ports of our realme of Engleand, commodious for that purpose, that the saide parson or parsons having committed anie such robberie or spoile shall, within the terme to be limited by suche proclamations, make full restitucion or satisfaction of all suche injuries done, soe as the saide princes or others soe complained may hould themselves fully satisfied and contented; and that if the saide parson or parsons having committed such robberie or spoile
shall not make or cause to be made satisfaction accordingly with[in] such time soe to be limitted, that then it shalbe lawfull to us, our heires and successors to put the saide parson or parsons having committed such robberie or spoile and there procurers, abbetors or comfortors out of our allegeanence and protection; and that it shalbe lawfull and free for all princes and others to pursue with hostilitie the saide offendors and everie of them and theire and everie of their procurors, aiders, abbetors and comfortors in that behalfe.

And finallie wee doe, for us, our heires and successors, grannte and agree, to and with the saide Sir Thomas Gates, Sir George Sumers, Richarde Hackluit and Edwarde Maria Winghfeilde, and all other of the saide Firste Colonie, that wee, our heires or successors, upon petition in that behalfe to be made, shall, by lettres patents under the Greate [Seale] of Englande, give and grannte unto such parsons, theire heires and assignees, as the Counsell of that Colonie or the most part of them shall for that purpose nomminate and assigne, all the landes, tenements and hereditaments which shalbe within the precincts limited for that Colonie, as is aforesaid, to be houlden of us, our heires and successors as of our mannor of Eastgreenwiche in the countie of Kente, in free and common soccage onelie and not in capite.

And doe, in like manner, grannte and agree, for us, our heires and successors, to and with the saide Thomas Hannam, Raleighe Gilberd, William Parker and George Popham, and all others of the saide Seconde Colonie, that wee, our heires [and] successors, upon petition in that behalfe to be made, shall, by lettres patentes under the Great Seale of Englande, give and grannte unto such parsons, theire heires and assignees, as the Counsell of that Colonie or the most parte of them shall for that purpose nomminate and assigne, all the landes, tenementes and hereditaments which shalbe within the precinctes limited for that Colonie as is afore said, to be houlden of us, our heires and successors as of our mannor of Eastgreenwich in the countie of Kente, in free and common soccage onelie and not in capite.

All which landes, tenements and hereditaments soe to be passed by the saide severall lettres patents, shalbe, by sufficient assurances from the same patentees, soe distributed and devided amongst the undertakers for the plantacion of the said severall Colonies, and such as shall make therei plantacion in either of the said severall Colonies, in such manner and forme and for such estates as shall [be] ordered and sett [downe] by the Counsell of the same Colonie, or the most part of them, respectively, within which the same lands, tenementes and hereditaments shall ly or be. Althoughe expresse mencion [of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants, by us or any our progenitors or predecessors, to the aforesaid Sir Thomas Gates, Knt. Sir George Somers, Knt. Richard Hackluit, Edward-Maria Wingfield, Thomas Hanham, Ralegh Gilbert, William Parker, and George Popham, or any of them, heretofore made in these presents, is not made; or any statute, act, ordnance, or provision, proclamation, or restraint, to the contrary hereof had, made, ordained, or any other thing, cause, or matter whatsoever, in any wise notwithstanding.] In witnesse wherof [we have caused these our letters to be made patents;] witnesse our selfe at Westminister the xth day of Aprill [1606, in the fourth year of our reign of England, France, and Ireland, and of Scotland the nine and thirtieth.]
THE SUPREME COURT OF THE UNITED STATES

WEIGHS IN ON THE ISSUE OF THE DOCTRINE OF DISCOVERY

Johnson v. M'Intosh
21 U.S. 543 (1823) U.S. Supreme Court

Johnson & Graham's Lessee v. McIntosh, 21 U.S. 8 Wheat. 543 543 (1823)

Johnson & Graham's Lessee v. McIntosh
21 U.S. (8 Wheat.) 543

ERROR TO THE DISTRICT

COURT OF ILLINOIS

Syllabus

A title to lands under grants to private individuals made by Indian tribes or nations northwest of the River Ohio in 1773 and 1775 cannot be recognized in the courts of the United States.[2

Discovery the original foundation of titles to land on the American continent as between the different European nations by whom conquests and settlements were made here.

Recognition of the same principle in the wars, negotiations, and treaties between the different European powers.

Adoption of the same principle by the United States.

The exclusive right of the British government to the lands occupied by the Indians has passed to that of the United States.

Foundation and limitation of the right of conquest.

Application of the principle of the right of conquest to the case of the Indian savages. Nature of the Indian title, as subordinate to the absolute ultimate title of the government.

Effect of the proclamation of 1763.

Titles in New England under Indian grants.
This was an action of ejectment for lands in the State and District of Illinois, claimed by the plaintiffs under a purchase and conveyance from the Piankeshaw Indians and by the defendant under a grant from the United States. It came up on a case stated upon which there was a judgment below for the defendant. The case stated set out the following facts:

1st. That on 23 May, 1609, James I, King of England, by his letters patent of that date, under the great seal of England, did erect, form, and establish Robert, Earl of Salisbury, and others, his associates, in the letters patent named and their successors into a body corporate and politic by the name and style of "The Treasurer and Company of Adventurers and Planters of the City of London for the first Colony in Virginia," with perpetual succession and power to make, have, and use a common seal, and did give, grant, and confirm unto this company, and their successors,

under certain reservations and limitations in the letters patent expressed,

"All the lands, countries, and territories situate, lying, and being in that part of North America called Virginia, from the point of land called Cape or Point Comfort all along the seacoast to the northward two hundred miles, and from the said Cape or Point Comfort all along the seacoast to the southward two hundred miles, and all that space and circuit of land lying from the seacoast of the precinct aforesaid up into the land throughout from the sea, west and northwest, and also all the islands lying within one hundred miles along the coast of both seas of the precinct aforesaid, with all the soil, grounds, rights, privileges, and appurtenances to these territories belonging and in the letters patent particularly enumerated,"

and did grant to this corporation and their successors various powers of government in the letters patent particularly expressed.

2d. That the place called in these letters patent Cape or Point Comfort is the place now called and known by the name of Old Point Comfort, on the Chesapeake Bay and Hampton Roads, and that immediately after the granting of the letters patent, the corporation proceeded under and by virtue of them to take possession of parts of the territory which they describe and to form settlements, plant a colony, and exercise the powers of government therein, which colony was called and known by the name of the Colony of Virginia.

3d. That at the time of granting these letters patent and of the discovery of the continent of

North America by the Europeans, and during the whole intermediate time, the whole of the territory in the letters patent described, except a small district on James River, where a settlement of Europeans had previously been made, was held, occupied, and possessed in full sovereignty by various independent tribes or nations of Indians, who were the sovereigns of their respective portions of the territory and the absolute owners and proprietors of the soil and who neither acknowledged nor owed any allegiance or obedience to any European sovereign or state whatever, and that in making settlements within this territory and in all the other parts of North America where settlements were made under the authority of the English government or by its subjects, the
right of soil was previously obtained by purchase or conquest from the particular Indian tribe or nation by which the soil was claimed and held, or the consent of such tribe or nation was secured.

4th. That in the year 1624, this corporation was dissolved by due course of law and all its powers, together with its rights of soil and jurisdiction under the letters patent in question were revested in the Crown of England, whereupon the colony became a royal government with the same territorial limits and extent which had been established by the letters patent, and so continued until it became a free and independent state, except so far as its limits and extent were altered and curtailed by the Treaty of February 10, 1763, between Great Britain and France and by the letters patent granted by the King of England for establishing the Colonies of Carolina, Maryland, and Pennsylvania.

5th. That sometime previous to the year 1756, the French government, laying a claim to the country west of the Alleghany or Appalachian Mountains on the Ohio and Mississippi Rivers and their branches, took possession of certain parts of it with the consent of the several tribes or nations of Indians possessing and owning them, and with the like consent established several military posts and settlements therein, particularly at Kaskaskias, on the River Kaskaskias, and at Vincennes, on the River Wabash, within the limits of the Colony of Virginia, as described and established in and by the letters patent of May 23, 1609, and that the government of Great Britain, after complaining of these establishments as encroachments and remonstrating against them, at length, in the year 1756, took up arms to resist and repel them, which produced a war between those two nations wherein the Indian tribes inhabiting and holding the countries northwest of the Ohio and on the Mississippi above the mouth of the Ohio were the allies of France, and the Indians known by the name of the Six Nations or the Iroquois and their tributaries and allies were the allies of Great Britain, and that on 10 February, 1763, this war was terminated by a definitive treaty of peace between Great Britain and France and their allies by which it was stipulated and agreed that the River Mississippi, from its source to the Iberville, should forever after form the boundary between the dominions of Great Britain and those of France in that part of North America and between their respective allies there.

6th. That the government of Virginia, at and before the commencement of this war and at all times after it became a royal government, claimed and exercised jurisdiction, with the knowledge and assent of the government of Great Britain, in and over the country northwest of the River Ohio and east of the Mississippi as being included within the bounds and limits described and established for that colony, by the letters patent of May 23, 1609, and that in the year 1749, a grant of six hundred thousand acres of land within the country northwest of the Ohio and as part of Virginia was made by the government of Great Britain to some of its subjects by the name and style of the Ohio Company.

7th. That at and before the commencement of the war in 1756 and during its whole continuance and at the time of the Treaty of February 10, 1763, the Indian tribes or nations inhabiting the country north and northwest of the Ohio and east of the Mississippi as far east as the river falling
into the Ohio called the Great Miami were called and known by the name of the Western Confederacy of Indians, and were the allies of France in the war, but not her subjects, never having been in any manner conquered by her, and held the country in absolute sovereignty as independent nations, both as to the right of jurisdiction and sovereignty and the right of soil, except a few military posts and a small territory around each,

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which they had ceded to France, and she held under them, and among which were the aforesaid posts of Kaskaskias and Vincennes, and that these Indians, after the treaty, became the allies of Great Britain, living under her protection as they had before lived under that of France, but were free and independent, owing no allegiance to any foreign power whatever and holding their lands in absolute property, the territories of the respective tribes being separated from each other and distinguished by certain natural marks and boundaries to the Indians well known, and each tribe claiming and exercising separate and absolute ownership in and over its own territory, both as to the right of sovereignty and jurisdiction and the right of soil.

8th. That among the tribes of Indians thus holding and inhabiting the territory north and northwest of the Ohio, east of the Mississippi, and west of the Great Miami, within the limits of Virginia, as described in the letters patent of May 23, 1609, were certain independent tribes or nations called the Illinois or Kaskaskias and the Piankeshaw or Wabash Indians, the first of which consisted of three several tribes united into one and called the Kaskasias, the Pewarias, and the Cahouquias; that the Illinois owned, held, and inhabited, as their absolute and separate property, a large tract of country within the last mentioned limits and situated on the Mississippi, Illinois, and Kaskaskias Rivers and on the Ohio below the mouth of the Wabash, and the Piankeshaws another large tract of country within the same

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limits, and as their absolute and separate property, on the Wabash and Ohio Rivers, and that these Indians remained in the sole and absolute ownership and possession of the country in question until the sales made by them in the manner herein after set forth.

9th. That on the termination of the war between Great Britain and France, the Illinois Indians, by the name of the Kaskaskias tribes of Indians, as fully representing all the Illinois tribes then remaining, made a treaty of peace with Great Britain and a treaty of peace, limits, and amity, under her mediation, with the Six Nations, or Iroquois, and their allies, then known and distinguished by the name of the Northern Confederacy of Indians, the Illinois being a part of the confederacy then known and distinguished by the name of the Southern Confederacy, and sometimes by that of the Western Confederacy.

10th. That on 7 October, 1763, the King of Great Britain made and published a proclamation for the better regulation of the countries ceded to Great Britain by that treaty, which proclamation is referred to and made part of the case.

11th. That from time immemorial and always up to the present time, all the Indian tribes or nations of North America, and especially the Illinois and Piankeshaws and other tribes holding, possessing,
and inhabiting the said countries north and northeast of the Ohio east of the Mississippi and west of the Great Miami held their respective lands and territories each in common, the individuals

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of each tribe or nation holding the lands and territories of such tribe in common with each other, and there being among them no separate property in the soil, and that their sole method of selling, granting, and conveying their lands, whether to governments or individuals, always has been from time immemorial and now is for certain chiefs of the tribe selling to represent the whole tribe in every part of the transaction, to make the contract, and execute the deed, on behalf of the whole tribe, to receive for it the consideration, whether in money or commodities, or both, and finally to divide such consideration among the individuals of the tribe, and that the authority of the chiefs so acting for the whole tribe is attested by the presence and assent of the individuals composing the tribe, or some of them, and by the receipt by the individuals composing the tribe of their respective shares of the price, and in no other manner.

12th. That on 5 July, 1773, certain chiefs of the Illinois Indians, then jointly representing, acting for, and being duly authorized by that tribe in the manner explained above, did by their deed poll, duly executed and delivered and bearing date on that day, at the post of Kaskaskias, then being a British military post, and at a public council there held by them for and on behalf of the said Illinois nation of Indians with William Murray, of the Illinois country, merchant, acting for himself and for Moses Franks and Jacob Franks, of London, in Great Britain, David Franks, John Inglis, Bernard Gratz, Michael

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Gratz, Alexander Ross, David Sproat, and James Milligan, all of Philadelphia, in the province of Pennsylvania; Moses Franks, Andrew Hamilton, William Hamilton, and Edmund Milne of the same place; Joseph Simons otherwise called Joseph Simon and Levi Andrew Levi of the Town of Lancaster in Pennsylvania; Thomas Minshall of York County in the same province; Robert Callender and William Thompson, of Cumberland County in the same province; John Campbell of Pittsburgh in the same province; and George Castles and James Ramsay of the Illinois country, and for a good and valuable consideration in the said deed stated grant, bargain, sell, alien, lease, enfeoff, and confirm to the said William Murray, Moses Franks, Jacob Franks, David Franks, John Inglis, Bernard Gratz, Michael Gratz, Alexander Ross, David Sproat, James Milligan, Andrew Hamilton, William Hamilton, Edmund Milne Joseph Simons, otherwise called Joseph Simon Levi Andrew Levi, Thomas Minshall, Robert Callender, William Thompson, John Campbell, George Castles, and James Ramsay, their heirs and assigns forever, in severalty, or to George the Third, then King of Great Britain and Ireland, his heirs and successors, for the use, benefit, and behoof of the grantees, their heirs and assigns, in severalty, by whichever of those tenures they might most legally hold, all those two several tracts or parcels of land situated, lying, and being within the limits of Virginia on the east of the Mississippi, northwest of the Ohio, and west of the Great Miami, and thus butted

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and bounded:
Beginning for one of the said tracts on the east side of the Mississippi at the mouth of the Heron Creek, called by the French the River of Mary, being about a league below the mouth of the Kaskaskias River, and running thence a northward of east course in a direct line back to the Hilly Plains, about eight leagues more or less; thence the same course in a direct line to the Crab Tree Plains, about seventeen leagues more or less; thence the same course in a direct line to a remarkable place known by the name of the Big Buffalo Hoofs, about seventeen leagues more or less; thence the same course, in a direct line to the Salt Lick Creek, about seven leagues more or less; then crossing the Salt Lick Creek, about one league below the ancient Shawanese town in an easterly or a little to the north of east course in a direct line to the River Ohio, about four leagues more or less; then down the Ohio by its several courses until it empties into the Mississippi, about thirty-five leagues more or less; and then up the Mississippi, by its several courses, to the place of beginning, about thirty-three leagues more or less; and beginning for the other tract on the Mississippi at a point directly opposite to the mouth of the Missouri and running up the Mississippi by its several courses to the mouth of the Illinois, about six leagues more or less; and thence up the Illinois, by its several courses, to Chicagou or Garlic Creek, about ninety leagues, more or less; thence nearly a northerly course, in a direct line, to a certain remarkable place, being the ground on which a battle was fought about forty or fifty years before that time between the Pewaria and Renard Indians, about fifty leagues more or less; thence by the same course in a direct line to two remarkable hills close together in the middle of a large prairie or plain, about fourteen leagues more or less; thence a north of east course, in a direct line, to a remarkable spring known by the Indians by the name of "Foggy Spring," about fourteen leagues more or less; thence the same course in a direct line to a great mountain, to the northwest of the White Buffalo Plain, about fifteen leagues more or less; and thence nearly a southwest course to the place of beginning, about forty leagues more or less:

To have and to hold the said two tracts of land, with all and singular their appurtenances, to the grantees, their heirs and assigns, forever in severalty or to the King, his heirs and successors, to and for the use, benefit, or behoof of the grantees, their heirs and assigns, forever in severalty, as will more fully appear by the said deed poll, duly executed under the hands and seals of the grantors and duly recorded at Kaskaskias on 2 September, 1773, in the office of Vicerault Lemerance, a notary public, duly appointed and authorized. This deed, with the several certificates annexed to or endorsed on it, was set out at length in the case.

13th. That the consideration in this deed expressed, was of the value of $24,000 current money of the United States and upwards, and was paid and delivered, at the time of the execution of the deed, by William Murray, one of the grantees, in behalf of himself and the other grantees, to the Illinois Indians, who freely accepted it and divided it among themselves; that the conferences in which the sale of these lands was agreed on and made and in which it was agreed that the deed should be executed were publicly held for the space of a month at the post of Kaskaskias, and were attended by many individuals of
all the tribes of Illinois Indians, besides the chiefs, named as grantors in the deed; that the whole transaction was open, public, and fair, and the deed fully explained to the grantors and other Indians by the sworn interpreters of the government and fully understood by the grantors and other Indians before it was executed; that the several witnesses to the deed and the grantees named in it were such persons and of such quality and stations, respectively, as they are described to be in the deed, the attestation, and the other endorsements on it; that the grantees did duly authorize William Murray to act for and represent them in the purchase of the lands and the acceptance of the deed, and that the two tracts or parcels of land which it describes and purports to grant were then part of the lands held, possessed, and inhabited by the Illinois Indians from time immemorial in the manner already stated.

14th. That all the persons named as grantees in this deed were, at the time of its execution and long before, subjects of the Crown of Great Britain and residents of the several places named in the deed as their places of residence, and that

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they entered into the land under and by virtue of the deed and became seized as the law requires.

15th. That on 18 October, 1775, Tabac and certain other Indians, all being chiefs of the Piankeshaws and jointly representing, acting for, and duly authorized by that nation in the manner stated above, did, by their deed poll, duly executed and bearing date on the day last mentioned at the post of Vincennes, otherwise called post St. Vincent, then being a British military post, and at a public council there held by them for and on behalf of the Piankeshaw Indians, with Louis Viviat, of the Illinois country, acting for himself and for the Right Honorable John, Earl of Dunmore, then Governor of Virginia, the Honorable John Murray, son of the said Earl, Moses Franks and Jacob Franks, of London, in Great Britain, Thomas Johnson, Jr., and John Davidson, both of Annapolis, in Maryland, William Russel, Matthew Ridley, Robert Christie, Sr., and Robert Christie, Jr., of Baltimore Town, in the same province, Peter Compbell, of Piscataway in the same province, William Geddes, of Newtown Chester in the same province, collector of his Majesty's customs, David Franks and Moses Franks, both of Philadelphia in Pennsylvania, William Murray and Daniel Murray, of the Illinois country, Nicholas St. Martin and Joseph Page, of the same place, Francis Perthuis, late of Quebec, in Canada, but then of post St. Vincent, and for good and valuable consideration, in the deed poll mentioned and enumerated, grant, bargain, sell, alien, enfeoff, release, ratify, and

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confirm to the said Louis Viviat and the other persons last mentioned, their heirs and assigns, equally to be divided, or to George III, then King of Great Britain and Ireland, his heirs and successors, for the use, benefit, and behalf of all the above mentioned grantees, their heirs and assigns, in severalty, by whichever of those tenures they might most legally hold, all those two several tracts of land in the deed particularly described situate, lying,

brk:

and being northwest of the Ohio, east of the Mississippi, and west of the Great Miami, within the limits of Virginia and on both sides of the Ouabache, otherwise called the Wabash, which two tracts
of land are contained respectively within the following metes and bounds, courses and distances, that is to say, beginning for one of the said tracts at the mouth of a rivulet called Riviere du Chat, or Cat River, where it empties itself into the Ouabache or Wabash, by its several courses, to a place called Point Coupee, about twelve leagues above post St. Vincent, being forty leagues, or thereabouths, in length, on the said river Ouabache, from the place of beginning, with forty leagues in width or breadth on the east side, and thirty leagues in breadth or width on the west side of that river, to be continued along from the place of beginning to Point Coupee. And beginning for the other tract at the mouth of White River where it empties into the Ouabache, about twelve leagues below post St. Vincent, and running thence down the Ouabache by its several courses until it empties into the Ohio, being from White River to the Ohio, about fifty-three leagues in length, more or less, with forty

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leagues in width or breadth on the east side and thirty in width or breadth on the west side of the Ouabache, to be continued along from the White River to the Ohio, with all the rights, liberties, privileges, hereditaments, and appurtenances to the said tract belonging, to have and to hold to the grantees, their heirs and assigns, forever in severalty or to the King, his heirs and successors, for the use, benefit, and behoof of the grantees, their heirs and assigns, as will more fully appear by the deed itself, duly executed under the hands and seals of the grantors, and duly recorded at Kaskaskias, on 5 December, 1775, in the office of Louis Bomer, a notary public, duly appointed and authorized. This deed, with the several certificates annexed to or endorsed on it, was set out at length.

16th. That the consideration in this deed expressed was of the value of $31,000 current money of the United States and upwards, and was paid and delivered at the time of the execution of the deed by the grantee, Lewis Viviat, in behalf of himself and the other grantees, to the Piankeshaw Indians, who freely accepted it and divided it among themselves; that the conferences in which the sale of these two tracts of land was agreed on and made, and in which it was agreed that the deed should be executed were publicly held for the space of a month at the post of Vincennes or post St. Vincent, and were attended by many individuals of the Piankeshaw nation of Indians besides the chiefs named as grantors in the deed; that the whole

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transaction was open, public, and fair, and the deed fully explained to the grantors and other Indians by skillful interpreters, and fully understood by them before it was executed; that it was executed in the presence of the several witnesses by whom it purports to have been attested, and was attested by them; that the grantees were all subjects of the Crown of Great Britain, and were of such quality, station, and residence, respectively, as they are described in the deed to be; that the grantees did duly authorize Lewis Viviat to act for and represent them in the purchase of these two tracts of land and in the acceptance of the deed; that these tracts of land were then part of the lands held, possessed, and inhabited by the Piankeshaw Indians from time immemorial, as is stated above; and that the several grantees under this deed entered into the land which it purports to grant and became seized as the law requires.
17th. That on 6 May, 1776, the Colony of Virginia threw off its dependence on the Crown and government of Great Britain and declared itself an independent state and government with the limits prescribed and established by the letters patent of May 23, 1609, as curtailed and restricted by the letters patent establishing the Colonies of Pennsylvania, Maryland, and Carolina and by the Treaty of February 10, 1763, between Great Britain and France, which limits, so curtailed and restricted, the State of Virginia, by its Constitution and form of government, declared should be and remain the limits of the state and should bound its western and northwestern extent.

18th. That on 5 October, 1778, the General Assembly of Virginia, having taken by arms the posts of Kaskaskias and Vincennes, or St. Vincent, from the British forces, by whom they were then held, and driven those forces from the country northwest of the Ohio, east of the Mississippi, and west of the Great Miami, did, by an act of assembly of that date, entitled "An act for establishing the County of Illinois and for the more effectual protection and defense thereof," erect that country, with certain other portions of territory within the limits of the state and northwest of the Ohio into a county, by the name of the County of Illinois.

19th. That on 29 December, 1783, the State of Virginia, by an act of assembly of that date, authorized their delegates in the Congress of the United States, or such of the, to the number of three at least, as should be assembled in Congress on behalf of the state and by proper deeds or instruments in writing under their hands and seals, to convey, transfer, assign, and make over to the United States, in Congress assembled, for the benefit of the said states, all right, title, and claim, as well of soil as jurisdiction, which Virginia had to the territory or tract of country within her limits, as defined and prescribed by the letters patent of May 23, 1609, and lying to the northwest of the Ohio; subject to certain limitations and conditions in the act prescribed and specified, and that on 1 March, 1784, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, then being four of the delegates of Virginia to the Congress of the United States, did, by their deed poll, under their hands and seals, in pursuance and execution of the authority to them given by this act of assembly, convey, transfer, assign, and make over to the United States, in Congress assembled, for the benefit of the said states, all right, title, and claim, as well of soil as jurisdiction which that state had to the territory northwest of the Ohio, with the reservations, limitations, and conditions in the act of assembly prescribed, which cession the United States accepted.

20th. That on 20 July, 1818, the United States, by their officers duly authorized for that purpose did sell, grant, and convey to the defendant in this action, William McIntosh, all those several tracts or parcels of land, containing 11,560 acres, and butted, bounded, and described, as will fully appear in and by the patent for the said lands, duly executed, which was set out at length.

21st. That the lands described and granted in and by this patent are situated within the State of Illinois and are contained within the lines of the last or second of the two tracts described and purporting to be granted and conveyed to Louis Viviat and others by the deed of October 18, 1775,
and that William McIntosh, the defendant, entered upon these lands under and by virtue of his patent and became possessed thereof before the institution of this suit.

22d. That Thomas Johnson, one of the grantees

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in and under the deed of October 18, 1775, departed this life on or about 1 October, 1819, seized of all his undivided part or share of and in the two several tracts of land described and purporting to be granted and conveyed to him and others by that deed, having first duly made and published his last will and testament in writing, attested by three credible witnesses, which he left in full force and by which he devised all his undivided share and part of those two tracts of land to his son, Joshua Johnson and his heirs, and his grandson, Thomas J. Graham, and his heirs, the lessors of the plaintiff in this action, as tenants in common.

23d. That Joshua Johnson and Thomas J. Graham, the devisees, entered into the two tracts of land last above mentioned under and by virtue of the will, and became thereof seized as the law requires. That Thomas Johnson, the grantee and deviso, during his whole life and at the time of his death, was an inhabitant and citizen of the State of Maryland; that Joshua Johnson and Thomas J. Graham, the lessors of the plaintiff, now are and always have been citizens of the same state; that the defendant, William McIntosh, now is and at and before the time of bringing this action was a citizen of the State of Illinois, and that the matter in dispute in this action is of the value of $2,000 current money of the United States and upwards.

24th. And that neither William Murray nor any other of the grantees under the deed of July 5, 1773, nor Louis Viviat nor any other of the

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grantees under the deed of October 8, 1775, nor any person for them or any of them ever obtained or had the actual possession under and by virtue of those deeds or either of them of any part of the lands in them or either of them described and purporting to be granted, but were prevented by the war of the American Revolution, which soon after commenced, and by the disputes and troubles which preceded it, from obtaining such possession, and that since the termination of the war and before it, they have repeatedly and at various times from the year 1781 till the year 1816 petitioned the Congress of the United States to acknowledge and confirm their title to those lands under the purchases and deeds in question, but without success.

Judgment being given for the defendant on the case stated, the plaintiffs brought this writ of error.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

The plaintiffs in this cause claim the land in their declaration mentioned under two grants purporting to be made, the first in 1773 and the last in 1775, by the chiefs of certain
Indian tribes constituting the Illinois and the Piankeshaw nations, and the question is whether this title can be recognized in the courts of the United States?

The facts, as stated in the case agreed, show the authority of the chiefs who executed this conveyance so far as it could be given by their own people, and likewise show that the particular tribes for whom these chiefs acted were in rightful possession of the land they sold. The inquiry, therefore, is in a great measure confined to the power of Indians to give, and of private individuals to receive, a title which can be sustained in the courts of this country.

As the right of society to prescribe those rules by which property may be acquired and preserved is not and cannot be drawn into question, as the title to lands especially is and must be admitted to depend entirely on the law of the nation in which they lie, it will be necessary in pursuing this inquiry to examine not singly those principles of abstract justice which the Creator of all things has impressed on the mind of his creature man and which are admitted to regulate in a great degree the rights of civilized nations, whose perfect independence is acknowledged, but those principles also which our own government has adopted in the particular case and given us as the rule for our decision.

On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all, and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendency. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new by bestowing on them civilization and Christianity in exchange for unlimited independence. But as they were all in pursuit of nearly the same object, it was necessary, in order to avoid conflicting settlements and consequent war with each other, to establish a principle which all should acknowledge as the law by which the right of acquisition, which they all asserted should be regulated as between themselves. This principle was that discovery gave title to the government by whose subjects or by whose authority it was made against all other European governments, which title might be consummated by possession.

The exclusion of all other Europeans necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which by others all assented.

Those relations which were to exist between the discoverer and the natives were to be regulated by themselves. The rights thus acquired being exclusive, no other power could interpose between them.
In the establishment of these relations, the rights of the original inhabitants were in no instance entirely disregarded, but were necessarily to a considerable extent impaired. They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty as independent nations were necessarily diminished, and their power to dispose of the soil at their own will to whomsoever they pleased was denied by the original fundamental principle that discovery gave exclusive title to those who made it.

While the different nations of Europe respected the right of the natives as occupants, they asserted the ultimate dominion to be in themselves, and claimed and exercised, as a consequence of this ultimate dominion, a power to grant the soil while yet in possession of the natives. These grants have been understood by all to convey a title to the grantees, subject only to the Indian right of occupancy.

The history of America from its discovery to the present day proves, we think, the universal recognition of these principles.

Spain did not rest her title solely on the grant of the Pope. Her discussions respecting boundary, with France, with Great Britain, and with the United States all show that she placed in on the rights given by discovery. Portugal sustained her claim to the Brazils by the same title.

France also founded her title to the vast territories she claimed in America on discovery. However conciliatory her conduct to the natives may have been, she still asserted her right of dominion over a great extent of country not actually settled by Frenchmen and her exclusive right to acquire and dispose of the soil which remained in the occupation of Indians. Her monarch claimed all Canada and Acadie as colonies of France at a time when the French population was very inconsiderable and the Indians occupied almost the whole country. He also claimed Louisiana, comprehending the immense territories watered by the Mississippi and the rivers which empty into it, by the title of discovery. The letters patent granted to the Sieur Demonts in 1603, constitute him Lieutenant General, and the representative of the King in Acadie, which is described as stretching from the 40th to the 46th degree of north latitude, with authority to extend the power of the French over that country and its inhabitants, to give laws to the people, to treat with the natives and enforce the observance of treaties, and to parcel out and give title to lands according to his own judgment.

The states of Holland also made acquisitions in America and sustained their right on the common principle adopted by all Europe. They allege, as we are told by Smith in his History of New York, that Henry Hudson, who sailed, as they say, under the orders of their East India Company, discovered the country from the Delaware to the Hudson, up which he sailed to the 43d degree of north latitude, and this country they claimed under the title acquired by this voyage.
Their first object was commercial, as appears by a grant made to a company of merchants in 1614, but in 1621 the States General made, as we are told by Mr. Smith, a grant of the country to the West India Company by the name of New Netherlands.

The claim of the Dutch was always contested by the English -- not because they questioned the title given by discovery, but because they insisted on being themselves the rightful claimants under that title. Their pretensions were finally decided by the sword.

No one of the powers of Europe gave its full assent to this principle more unequivocally than England. The documents upon this subject are ample and complete. So early as the year 1496, her monarch granted a commission to the Cabots to discover countries then unknown to Christian people and to take possession of them in the name of the King of England. Two years afterwards, Cabot proceeded on this voyage and discovered the continent of North America, along which he sailed as far south as Virginia. To this discovery the English trace their title.

In this first effort made by the English government to acquire territory on this continent we perceive a complete recognition of the principle which has been mentioned. The right of discovery given by this commission is confined to countries "then unknown to all Christian people," and of these countries Cabot was empowered to take possession in the name of the King of England. Thus asserting a right to take possession notwithstanding the occupancy of the natives, who were heathens, and at the same time admitting the prior title of any Christian people who may have made a previous discovery.

The same principle continued to be recognized. The charter granted to Sir Humphrey Gilbert in 1578 authorizes him to discover and take possession of such remote, heathen, and barbarous lands as were not actually possessed by any Christian prince or people. This charter was afterwards renewed to Sir Walter Raleigh in nearly the same terms.

By the charter of 1606, under which the first permanent English settlement on this continent was made, James I granted to Sir Thomas Gates and others those territories in America lying on the seacoast between the 34th and 45th degrees of north latitude and which either belonged to that monarch or were not then possessed by any other Christian prince or people. The grantees were divided into two companies at their own request. The first or southern colony was directed to settle between the 34th and 41st degrees of north latitude, and the second or northern colony between the 38th and 45th degrees.

In 1609, after some expensive and not very successful attempts at settlement had been made, a new and more enlarged charter was given by the Crown to the first colony, in which the King granted to the "Treasurer and Company of Adventurers of the City of London for the first colony in Virginia," in absolute property, the lands extending along the seacoast four hundred miles, and
into the land throughout from sea to sea. This charter, which is a part of the special verdict in this cause, was annulled, so far as respected the rights of the company, by the judgment of the Court of King's Bench on a writ of quo warranto, but the whole effect allowed to this judgment was to revest in the Crown the powers of government and the title to the lands within its limits.

At the solicitation of those who held under the grant to the second or northern colony, a new and more enlarged charter was granted to the Duke of Lenox and others in 1620, who were denominated the Plymouth Company, conveying to them in absolute property all the lands between the 40th and 48th degrees of north latitude.

Under this patent New England has been in a great measure settled. The company conveyed to Henry Rosewell and others, in 1627, that territory which is now Massachusetts, and in 1628 a charter of incorporation comprehending the powers of government was granted to the purchasers.

Great part of New England was granted by this company, which at length divided their remaining lands among themselves, and in 1635 surrendered their charter to the Crown. A patent was granted to Gorges for Maine, which was allotted to him in the division of property.

All the grants made by the Plymouth Company, so far as we can learn, have been respected. In pursuance of the same principle, the King, in 1664, granted to the Duke of York the country of New England as far south as the Delaware Bay. His Royal Highness transferred New Jersey to Lord Berkeley and Sir George Carteret.

In 1663, the Crown granted to Lord Clarendon and others the country lying between the 36th degree of north latitude and the River St. Mathes, and in 1666 the proprietors obtained from the Crown a new charter granting to them that province in the King's dominions in North America which lies from 36 degrees 30 minutes north latitude to the 29th degree, and from the Atlantic ocean to the South sea.

Thus has our whole country been granted by the Crown while in the occupation of the Indians. These grants purport to convey the soil as well as the right of dominion to the grantees. In those governments which were denominated royal, where the right to the soil was not vested in individuals, but remained in the Crown or was vested in the colonial government, the King claimed and exercised the right of granting lands and of dismembering the government at his will. The grants made out of the two original colonies, after the resumption of their charters by the Crown, are examples of this. The governments of New England, New York, New Jersey, Pennsylvania, Maryland, and a part of Carolina were thus created. In all of them, the soil, at the time the grants were made, was occupied by the Indians. Yet almost every title within those governments is dependent on these grants. In some instances, the soil was conveyed by the Crown unaccompanied by the powers of government, as in the case of the northern neck of Virginia. It has never
been objected to this or to any other similar grant that the title as well as possession was in the Indians when it was made and that it passed nothing on that account.

These various patents cannot be considered as nullities, nor can they be limited to a mere grant of the powers of government. A charter intended to convey political power only would never contain words expressly granting the land, the soil, and the waters. Some of them purport to convey the soil alone, and in those cases in which the powers of government as well as the soil are conveyed to individuals, the Crown has always acknowledged itself to be bound by the grant. Though the power to dismember regal governments was asserted and exercised, the power to dismember proprietary governments was not claimed, and in some instances, even after the powers of government were revested in the Crown, the title of the proprietors to the soil was respected.

Charles II was extremely anxious to acquire the property of Maine, but the grantees sold it to Massachusetts, and he did not venture to contest the right of that colony to the soil. The Carolinas were originally proprietary governments. In 1721, a revolution was effected by the people, who shook off their obedience to the proprietors and declared their dependence immediately on the Crown. The King, however, purchased the title of those who were disposed to sell. One of them, Lord Carteret, surrendered his interest in the government but retained his title to the soil. That title was respected till the revolution, when it was forfeited by the laws of war.

Further proofs of the extent to which this principle has been recognized will be found in the history of the wars, negotiations, and treaties which the different nations claiming territory in America have carried on and held with each other.

The contests between the cabinets of Versailles and Madrid respecting the territory on the northern coast of the Gulf of Mexico were fierce and bloody, and continued until the establishment of a Bourbon on the throne of Spain produced such amicable dispositions in the two Crowns as to suspend or terminate them.

Between France and Great Britain, whose discoveries as well as settlements were nearly contemporaneous, contests for the country actually covered by the Indians began as soon as their settlements approached each other, and were continued until finally settled in the year 1763 by the Treaty of Paris.

Each nation had granted and partially settled the country, denominated by the French Acadie, and by the English Nova Scotia. By the 12th article of the Treaty of Utrecht, made in 1703, his most Christian Majesty ceded to the Queen of Great Britain "all Nova Scotia or Acadie, with its ancient boundaries." A great part of the ceded territory was in the possession of the Indians, and the extent of the cession could not be adjusted by the commissioners to whom it was to be referred.

The Treaty of Aix la Chapelle, which was made
on the principle of the status ante bellum, did not remove this subject of controversy. Commissioners for its adjustment were appointed whose very able and elaborate, though unsuccessful, arguments in favor of the title of their respective sovereigns show how entirely each relied on the title given by discovery to lands remaining in the possession of Indians.

After the termination of this fruitless discussion, the subject was transferred to Europe and taken up by the cabinets of Versailles and London. This controversy embraced not only the boundaries of New England, Nova Scotia, and that part of Canada which adjoined those colonies, but embraced our whole western country also. France contended not only that the St. Lawrence was to be considered as the center of Canada, but that the Ohio was within that colony. She founded this claim on discovery and on having used that river for the transportation of troops in a war with some southern Indians.

This river was comprehended in the chartered limits of Virginia, but though the right of England to a reasonable extent of country in virtue of her discovery of the seacoast and of the settlements she made on it, was not to be questioned, her claim of all the lands to the Pacific Ocean because she had discovered the country washed by the Atlantic, might, without derogating from the principle recognized by all, be deemed extravagant. It interfered, too, with the claims of France founded on the same principle. She therefore sought to strengthen her original title to the lands in controversy by insisting that it had been acknowledged by France in the 15th article of the Treaty of Utrecht. The dispute respecting the construction of that article has no tendency to impair the principle, that discovery gave a title to lands still remaining in the possession of the Indians. Whichever title prevailed, it was still a title to lands occupied by the Indians, whose right of occupancy neither controverted and neither had then extinguished.

These conflicting claims produced a long and bloody war which was terminated by the conquest of the whole country east of the Mississippi. In the treaty of 1763, France ceded and guaranteed to Great Britain all Nova Scotia, or Acadie, and Canada, with their dependencies, and it was agreed that the boundaries between the territories of the two nations in America should be irrevocably fixed by a line drawn from the source of the Mississippi, through the middle of that river and the lakes Maurepas and Ponchartrain, to the sea. This treaty expressly cedes, and has always been understood to cede, the whole country on the English side of the dividing line between the two nations, although a great and valuable part of it was occupied by the Indians. Great Britain, on her part, surrendered to France all her pretensions to the country west of the Mississippi. It has never been supposed that she surrendered nothing, although she was not in actual possession of a foot of land. She surrendered all right to acquired the country, and any after attempt to purchase it from the Indians would have been considered an invasion of the territories of France.
By the 20th article of the same treaty, Spain ceded Florida, with its dependencies and all the country she claimed east or southeast of the Mississippi, to Great Britain. Great part of this territory also was in possession of the Indians.

By a secret treaty which was executed about the same time, France ceded Louisiana to Spain, and Spain has since retroceded the same country to France. At the time both of its cession and retrocession, it was occupied chiefly by the Indians.

Thus all the nations of Europe who have acquired territory on this continent have asserted in themselves and have recognized in others the exclusive right of the discoverer to appropriate the lands occupied by the Indians. Have the American states rejected or adopted this principle?

By the treaty which concluded the war of our revolution, Great Britain relinquished all claim not only to the government, but to the "propriety and territorial rights of the United States" whose boundaries were fixed in the second article. By this treaty the powers of government and the right to soil which had previously been in Great Britain passed definitively to these states. We had before taken possession of them by declaring independence, but neither the declaration of independence nor the treaty confirming it could give us more than that which we before possessed or to which Great Britain was before entitled. It

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has never been doubted that either the United States or the several states had a clear title to all the lands within the boundary lines described in the treaty, subject only to the Indian right of occupancy, and that the exclusive power to extinguish that right was vested in that government which might constitutionally exercise it.

Virginia, particularly, within whose chartered limits the land in controversy lay, passed an act in the year 1779 declaring her

"exclusive right of preemption from the Indians of all the lands within the limits of her own chartered territory, and that no person or persons whatsoever have or ever had a right to purchase any lands within the same from any Indian nation except only persons duly authorized to make such purchase, formerly for the use and benefit of the colony and lately for the Commonwealth."

The act then proceeds to annul all deeds made by Indians to individuals for the private use of the purchasers.

Without ascribing to this act the power of annulling vested rights or admitting it to countervail the testimony furnished by the marginal note opposite to the title of the law forbidding purchases from the Indians in the revisals of the Virginia statutes stating that law to be repealed, it may safely be considered as an unequivocal affirrmance on the part of Virginia of the broad principle which had always been maintained that the exclusive right to purchase from the Indians resided in the government.

In pursuance of the same idea, Virginia proceeded at the same session to open her
land office for the sale of that country which now constitutes Kentucky, a country every acre of which was then claimed and possessed by Indians, who maintained their title with as much persevering courage as was ever manifested by any people.

The states, having within their chartered limits different portions of territory covered by Indians, ceded that territory generally to the United States on conditions expressed in their deeds of cession, which demonstrate the opinion that they ceded the soil as well as jurisdiction, and that in doing so they granted a productive fund to the government of the Union. The lands in controversy lay within the chartered limits of Virginia, and were ceded with the whole country northwest of the River Ohio. This grant contained reservations and stipulations which could only be made by the owners of the soil, and concluded with a stipulation that

"all the lands in the ceded territory not reserved should be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation, . . . according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

The ceded territory was occupied by numerous and warlike tribes of Indians, but the exclusive right of the United States to extinguish their title and to grant the soil has never, we believe, been doubted.

After these states became independent, a controversy subsisted between them and Spain respecting boundary. By the treaty of 1795, this controversy was adjusted and Spain ceded to the United States the territory in question. This territory, though claimed by both nations, was chiefly in the actual occupation of Indians.

The magnificent purchase of Louisiana was the purchase from France of a country almost entirely occupied by numerous tribes of Indians who are in fact independent. Yet any attempt of others to intrude into that country would be considered as an aggression which would justify war.

Our late acquisitions from Spain are of the same character, and the negotiations which preceded those acquisitions recognize and elucidate the principle which has been received as the foundation of all European title in America.

The United States, then, has unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold and assert in themselves the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy either by purchase or by conquest, and gave also a right to such a degree of sovereignty as the circumstances of the people would allow them to exercise.

The power now possessed by the government of the United States to grant lands, resided, while we were colonies, in the Crown, or its grantees. The validity of the titles given by either has never
been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. An absolute title to lands cannot exist at the same time in different persons or in different governments. An absolute must be an exclusive title, or at least a title which excludes all others not compatible with it. All our institutions recognize the absolute title of the Crown, subject only to the Indian right of occupancy, and recognize the absolute title of the Crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians.

We will not enter into the controversy whether agriculturists, merchants, and manufacturers have a right on abstract principles to expel hunters from the territory they possess or to contract their limits. Conquest gives a title which the courts of the conqueror cannot deny, whatever the private and speculative opinions of individuals may be, respecting the original justice of the claim which has been successfully asserted. The British government, which was then our government and whose rights have passed to the United States, asserted title to all the lands occupied by Indians within the chartered limits of the British colonies. It asserted also a limited sovereignty over them and the exclusive right of extinguishing the title which occupancy gave to them. These claims have been maintained and established as far west as the River Mississippi by the sword. The title to a vast portion of the lands we now hold originates in them. It is not for the courts of this country to question the validity of this title or to sustain one which is incompatible with it.

Although we do not mean to engage in the defense of those principles which Europeans have applied to Indian title, they may, we think, find some excuse, if not justification, in the character and habits of the people whose rights have been wrested from them.

The title by conquest is acquired and maintained by force. The conqueror prescribes its limits. Humanity, however, acting on public opinion, has established, as a general rule, that the conquered shall not be wantonly oppressed, and that their condition shall remain as eligible as is compatible with the objects of the conquest. Most usually, they are incorporated with the victorious nation, and become subjects or citizens of the government with which they are connected. The new and old members of the society mingle with each other; the distinction between them is gradually lost, and they make one people. Where this incorporation is practicable, humanity demands and a wise policy requires that the rights of the conquered to property should remain unimpaired; that the new subjects should be governed as equitably as the old, and that confidence in their security should gradually banish the painful sense of being separated from their ancient connections, and united by force to strangers.

When the conquest is complete and the conquered inhabitants can be blended with the conquerors
or safely governed as a distinct people, public opinion, which not even the conqueror can disregard, imposes these restraints upon him, and he cannot neglect them without injury to his fame and hazard to his power.

But the tribes of Indians inhabiting this country were fierce savages whose occupation was war and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country was to leave the country a wilderness; to govern them as a distinct people was impossible because they were as brave and as high spirited as they were fierce, and were ready to repel by arms every attempt on their independence.

What was the inevitable consequence of this state of things? The Europeans were under the necessity either of abandoning the country and relinquishing their pompous claims to it or of enforcing those claims by the sword, and by the adoption of principles adapted to the condition of a people with whom it was impossible to mix and who could not be governed as a distinct society, or of remaining in their neighborhood, and exposing themselves and their families to the perpetual hazard of being massacred.

Frequent and bloody wars, in which the whites were not always the aggressors, unavoidably ensued. European policy, numbers, and skill prevailed. As the white population advanced, that of the Indians necessarily receded. The country in the immediate neighborhood of agriculturists became unfit for them. The game fled

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into thicker and more unbroken forests, and the Indians followed. The soil to which the Crown originally claimed title, being no longer occupied by its ancient inhabitants, was parcelled out according to the will of the sovereign power and taken possession of by persons who claimed immediately from the Crown or mediately through its grantees or deputies.

That law which regulates and ought to regulate in general the relations between the conqueror and conquered was incapable of application to a people under such circumstances. The resort to some new and different rule better adapted to the actual state of things was unavoidable. Every rule which can be suggested will be found to be attended with great difficulty.

However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land and cannot be questioned. So, too, with respect to the concomitant principle that the Indian inhabitants are to be considered merely as occupants, to be protected, indeed, while in peace, in the possession of their lands, but to be deemed incapable of transferring the absolute title to others. However this restriction may be opposed to natural right, and to the usages of civilized nations, yet if it be indispensable to that system under which the country has been settled, and be

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adapted to the actual condition of the two people, it may perhaps be supported by reason, and
certainly cannot be rejected by courts of justice.

This question is not entirely new in this Court. The case of *Fletcher v. Peck* grew out of a sale made by
the State of Georgia of a large tract of country within the limits of that state, the grant of which was
afterwards resumed. The action was brought by a subpurchaser on the contract of sale, and one of
the covenants in the deed was that the State of Georgia was, at the time of sale, seized in fee of the
premises. The real question presented by the issue was whether the seizin in fee was in the State of
Georgia or in the United States. After stating that this controversy between the several states and
the United States had been compromised, the court thought it necessary to notice the Indian title,
which, although entitled to the respect of all courts until it should be legitimately extinguished, was
declared not to be such as to be absolutely repugnant to a seizin in fee on the part of the state.

This opinion conforms precisely to the principle which has been supposed to be recognized by all
European governments from the first settlement of America. The absolute ultimate title has been
considered as acquired by discovery, subject only to the Indian title of occupancy, which title the
discoverers possessed the exclusive right of acquiring. Such a right is no more incompatible with a
seizin in fee than a lease for years, and might as effectually bar an ejectment.

Another view has been taken of this question

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which deserves to be considered. The title of the Crown, whatever it might be, could be acquired
only by a conveyance from the Crown. If an individual might extinguish the Indian title for his own
benefit, or in other words might purchase it, still he could acquire only that title. Admitting their
power to change their laws or usages so far as to allow an individual to separate a portion of their
lands from the common stock and hold it in severalty, still it is a part of their territory and is held
under them by a title dependent on their laws. The grant derives its efficacy from their will, and if
they choose to resume it and make a different disposition of the land, the courts of the United
States cannot interpose for the protection of the title. The person who purchases lands from the
Indians within their territory incorporates himself with them so far as respects the property
purchased; holds their title under their protection and subject to their laws. If they annul the grant,
we know of no tribunal which can revise and set aside the proceeding. We know of no principle
which can distinguish this case from a grant made to a native Indian, authorizing him to hold a
particular tract of land in severalty.

As such a grant could not separate the Indian from his nation, nor give a title which our courts could
distinguish from the title of his tribe, as it might still be conquered from, or ceded by his tribe, we
can perceive no legal principle which will authorize a court to say that different consequences are
attached to this purchase because it was made by a stranger. By the treaties concluded

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between the United States and the Indian nations whose title the plaintiffs claim, the country
comprehending the lands in controversy has been ceded to the United States without any
reservation of their title. These nations had been at war with the United States, and had an
unquestionable right to annul any grant they had made to American citizens. Their cession of the
country without a reservation of this land affords a fair presumption that they considered it as of no
validity. They ceded to the United States this very property, after having used it in common with
other lands as their own, from the date of their deeds to the time of cession, and the attempt now
made, is to set up their title against that of the United States.

The proclamation issued by the King of Great Britain in 1763 has been considered, and we think with
reason, as constituting an additional objection to the title of the plaintiffs.

By that proclamation, the Crown reserved under its own dominion and protection, for the use of the
Indians, “all the land and territories lying to the westward of the sources of the rivers which fall into
the sea from the west and northwest,” and strictly forbade all British subjects from making any
purchases or settlements whatever or taking possession of the reserved lands.

It has been contended that in this proclamation, the King transcended his constitutional powers, and
the case of *Campbell v. Hall*, reported by Cowper, is relied on to support this position.

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It is supposed to be a principle of universal law that if an uninhabited country be discovered by a
number of individuals who acknowledge no connection with and owe no allegiance to any
government whatever, the country becomes the property of the discoverers, so far at least as they
can use it. They acquire a title in common. The title of the whole land is in the whole society. It is to
be divided and parcelled out according to the will of the society, expressed by the whole body or by
that organ which is authorized by the whole to express it.

If the discovery be made and possession of the country be taken under the authority of an existing
government, which is acknowledged by the emigrants, it is supposed to be equally well settled, that
the discovery is made for the whole nation, that the country becomes a part of the nation, and that
the vacant soil is to be disposed of by that organ of the government which has the constitutional
power to dispose of the national domains, by that organ in which all vacant territory is vested by
law.

According to the theory of the British Constitution, all vacant lands are vested in the Crown, as
representing the nation, and the exclusive power to grant them is admitted to reside in the Crown as
a branch of the royal prerogative. It has been already shown that this principle was as fully
recognized in America as in the Island of Great Britain. All the lands we hold were originally granted
by the Crown, and the establishment of a regal government has never been considered as

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impairing its right to grant lands within the chartered limits of such colony. In addition to the proof
of this principle, furnished by the immense grants already mentioned of lands lying within the
chartered limits of Virginia, the continuing right of the Crown to grant lands lying within that colony
was always admitted. A title might be obtained either by making an entry with the surveyor of a
county in pursuance of law or by an order of the governor in council, who was the deputy of the
King, or by an immediate grant from the Crown. In Virginia, therefore, as well as elsewhere in the British dominions, the complete title of the Crown to vacant lands was acknowledged.

So far as respected the authority of the Crown, no distinction was taken between vacant lands and lands occupied by the Indians. The title, subject only to the right of occupancy by the Indians, was admitted to be in the King, as was his right to grant that title. The lands, then, to which this proclamation referred were lands which the King had a right to grant, or to reserve for the Indians.

According to the theory of the British Constitution, the royal prerogative is very extensive so far as respects the political relations between Great Britain and foreign nations. The peculiar situation of the Indians, necessarily considered in some respects as a dependent and in some respects as a distinct people occupying a country claimed by Great Britain, and yet too powerful and brave not to be dreaded as formidable enemies, required that means should be adopted for the preservation of peace, and that their friendship should be secured by quieting their alarms for their property. This was to be effected by restraining the encroachments of the whites, and the power to do this was never, we believe, denied by the colonies to the Crown.

In the case of *Campbell v. Hall*, that part of the proclamation was determined to be illegal, which imposed a tax on a conquered province, after a government had been bestowed upon it. The correctness of this decision cannot be questioned, but its application to the case at bar cannot be admitted. Since the expulsion of the Stuart family, the power of imposing taxes by proclamation has never been claimed as a branch of regal prerogative, but the powers of granting, or refusing to grant, vacant lands, and of restraining encroachments on the Indians have always been asserted and admitted.

The authority of this proclamation, so far as it respected this continent, has never been denied, and the titles it gave to lands have always been sustained in our courts.

In the argument of this cause, the counsel for the plaintiffs have relied very much on the opinions expressed by men holding offices of trust, and on various proceedings in America to sustain titles to land derived from the Indians.

The collection of claims to lands lying in the western country made in the 1st volume of the Laws of the United States has been referred to, but we find nothing in that collection to support the argument. Most of the titles were derived

from persons professing to act under the authority of the government existing at the time, and the two grants under which the plaintiffs claim are supposed by the person under whose inspection the collection was made to be void, because forbidden by the royal proclamation of 1763. It is not unworthy of remark that the usual mode adopted by the Indians for granting lands to individuals has been to reserve them in a treaty or to grant them under the sanction of the commissioners with whom the treaty was negotiated. The practice in such case to grant to the Crown for the use of the
individual is some evidence of a general understanding that the validity even of such a grant depended on its receiving the royal sanction.

The controversy between the Colony of Connecticut and the Mohegan Indians depended on the nature and extent of a grant made by those Indians to the colony; on the nature and extent of the reservations made by the Indians, in their several deeds and treaties, which were alleged to be recognized by the legitimate authority; and on the violation by the colony of rights thus reserved and secured. We do not perceive in that case any assertion of the principle that individuals might obtain a complete and valid title from the Indians.

It has been stated that in the memorial transmitted from the Cabinet of London to that of Versailles, during the controversy between the two nations respecting boundary which took place in 1755, the Indian right to the soil is recognized.

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But this recognition was made with reference to their character as Indians and for the purpose of showing that they were fixed to a particular territory. It was made for the purpose of sustaining the claim of His Britannic Majesty to dominion over them.

The opinion of the Attorney and Solicitor General, Pratt and Yorke, have been adduced to prove that in the opinion of those great law officers, the Indian grant could convey a title to the soil without a patent emanating from the Crown. The opinion of those persons would certainly be of great authority on such a question, and we were not a little surprised when it was read, at the doctrine it seemed to advance. An opinion so contrary to the whole practice of the Crown and to the uniform opinions given on all other occasions by its great law officers ought to be very explicit and accompanied by the circumstances under which it was given, and to which it was applied before we can be assured that it is properly understood. In a pamphlet written for the purpose of asserting the Indian title, styled “Plain Facts,” the same opinion is quoted, and is said to relate to purchases made in the East Indies. It is, of course, entirely inapplicable to purchases made in America. Chalmers, in whose collection this opinion is found, does not say to whom it applies, but there is reason to believe that the author of Plain Facts is, in this respect, correct. The opinion commences thus:

"In respect to such places as have been or shall be acquired by treaty or grant from any of the Indian princes or governments,

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your Majesty’s letters patent are not necessary."

The words "princes or governments" are usually applied to the East Indians, but not to those of North America. We speak of their sachems, their warriors, their chiefmen, their nations or tribes, not of their "princes or governments." The question on which the opinion was given, too, and to which it relates, was whether the King’s subjects carry with them the common law wherever they may form settlements. The opinion is given with a view to this point, and its object must be kept in mind while construing its expressions.
Much reliance is also placed on the fact, that many tracts are now held in the United States under the Indian title, the validity of which is not questioned.

Before the importance attached to this fact is conceded, the circumstances under which such grants were obtained, and such titles are supported, ought to be considered. These lands lie chiefly in the eastern states. It is known that the Plymouth Company made many extensive grants which, from their ignorance of the country, interfered with each other. It is also known that Mason to whom New Hampshire, and Gorges, to whom Maine was granted, found great difficulty in managing such unwieldy property. The country was settled by emigrants, some from Europe, but chiefly from Massachusetts, who took possession of lands they found unoccupied, and secured themselves in that possession by the best means in their power. The disturbances in England, and the civil war and revolution which followed those disturbances, prevented any interference on the part of the mother country, and the proprietors were unable to maintain their title. In the meantime, Massachusetts claimed the country and governed it. As her claim was adversary to that of the proprietors, she encouraged the settlement of persons made under her authority, and encouraged likewise their securing themselves in possession, by purchasing the acquiescence and forbearance of the Indians. After the restoration of Charles II, Gorges and Mason, when they attempted to establish their title, found themselves opposed by men who held under Massachusetts and under the Indians. The title of the proprietors was resisted, and though in some cases compromises were made and in some, the opinion of a court was given ultimately in their favor, the juries found uniformly against them. They became wearied with the struggle, and sold their property. The titles held under the Indians were sanctioned by length of possession, but there is no case, so far as we are informed, of a judicial decision in their favor.

Much reliance has also been placed on a recital contained in the charter of Rhode Island, and on a letter addressed to the governors of the neighboring colonies, by the King's command, in which some expressions are inserted, indicating the royal approbation of titles acquired from the Indians.

The charter to Rhode Island recites

"That the said John Clark and others had transplanted

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themselves into the midst of the Indian nations, and were seized and possessed, by purchase and consent of the said natives, to their full content, of such lands,"

&c. And the letter recites, that

"Thomas Chifflinch and others, having, in the right of Major Asperton, a just propriety in the Narragansett Country, in New England, by grants from the native princes of that country, and being desirous to improve it into an English colony, . . . are yet daily disturbed."
The impression this language might make, if viewed apart from the circumstances under which it was employed, will be effaced, when considered in connection with those circumstances.

In the year 1635, the Plymouth Company surrendered their charter to the Crown. About the same time, the religious dissentsions of Massachusetts expelled from that colony several societies of individuals, one of which settled in Rhode Island, on lands purchased from the Indians. They were not within the chartered limits of Massachusetts, and the English government was too much occupied at home to bestow its attention on this subject. There existed no authority to arrest their settlement of the country. If they obtained the Indian title, there were none to assert the title of the Crown. Under these circumstances, the settlement became considerable. Individuals acquired separate property in lands which they cultivated and improved; a government was established among themselves, and no power existed in America which could rightfully interfere with it.

On the restoration of Charles II, this small society

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hastened to acknowledge his authority, and to solicit his confirmation of their title to the soil, and to jurisdiction over the country. Their solicitations were successful, and a charter was granted to them, containing the recital which has been mentioned.

It is obvious that this transaction can amount to no acknowledgment that the Indian grant could convey a title paramount to that of the Crown, or could in itself constitute a complete title. On the contrary, the charter of the Crown was considered as indispensable to its completion.

It has never been contended that the Indian title amounted to nothing. Their right of possession has never been questioned. The claim of government extends to the complete ultimate title, charged with this right of possession and to the exclusive power of acquiring that right. The object of the Crown was to settle the seacoast of America, and when a portion of it was settled, without violating the rights of others, by persons professing their loyalty, and soliciting the royal sanction of an act, the consequences of which were ascertained to be beneficial, it would have been as unwise as ungracious to expel them from their habitations, because they had obtained the Indian title otherwise than through the agency of government. The very grant of a charter is an assertion of the title of the Crown, and its words convey the same idea. The country granted is said to be "our island called Rhode Island," and the charter contains an actual grant of the soil as well as of the powers of government.

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The letter was written a few months before the charter was issued, apparently at the request of the agents of the intended colony, for the sole purpose of preventing the trespasses of neighbors, who were disposed to claim some authority over them. The King, being willing himself to ratify and confirm their title was, of course, inclined to quiet them in their possession.

This charter and this letter certainly sanction a previous unauthorized purchase from Indians under the circumstances attending that particular purchase, but are far from supporting the general
proposition, that a title acquired from the Indians would be valid against a title acquired from the Crown, or without the confirmation of the Crown.

The acts of the several colonial assemblies prohibiting purchases from the Indians have also been relied on as proving that, independent of such prohibitions, Indian deeds would be valid. But we think this fact, at most, equivocal. While the existence of such purchases would justify their prohibition, even by colonies which considered Indian deeds as previously invalid, the fact that such acts have been generally passed, is strong evidence of the general opinion, that such purchases are opposed by the soundest principles of wisdom and national policy.

After bestowing on this subject a degree of attention which was more required by the magnitude of the interest in litigation, and the able and elaborate arguments of the bar, than by its intrinsic difficulty, the court is decidedly of opinion, that the plaintiffs do not exhibit a title which can be sustained in the courts of the United States, and that there is no error in the judgment which was rendered against them in the District Court of Illinois.

Judgment affirmed with costs.

https://supreme.justia.com/cases/federal/us/21/543/case.html

From a church website:

Videos

- The Doctrine of Discovery: Unmasking the Domination Code (2015), directed by Sheldon P. Wolfchild and narrated by Buffy Sainte-Marie. This 61-minute video explains how the 1493 Doctrine of Discovery became encoded into US Law and history and why it matters today. Purchase a personal copy ($25) or an educational institution copy ($50) from 38 Plus 2 Productions.

- Professor Robert J. Miller, of Lewis and Clark University, speaks about The Doctrine of Discovery and Manifest Destiny (30:56) and explains how the doctrine undergirded the settlement and colonization of the United States. The ten points that Miller explains in the video can be found on the site of The Indigenous Peoples Forum on the Impacts of the Doctrine of Discovery.

Websites

- The Indigenous Law Institute works to develop a radically new basis for thinking about Native rights, from a Traditional Native Law perspective, and contends that Native nations and peoples have an inherent right to live free of all forms of empire and domination. Among the resources about the doctrine is the paper, Five Hundred Years of Injustice: The Legacy of Fifteenth Century Religious Prejudice, by Steven T. Newcomb.

- The Indigenous Peoples Forum on the Impact of the Doctrine of Discovery addresses the implications of the doctrine in today’s world and advocates for the repudiation of the doctrine and the full implementation of the United Nations Declaration on the Rights of Indigenous People.
Books

- **An Indigenous Peoples' History of the United States**, by Roxanne Dunbar-Ortiz (Beacon, 2015) is a history of the United States told from the perspective of indigenous peoples. The UUA has provided a [discussion guide (PDF)](#), with plans for a single session or for three sessions.

- **Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny**, by Robert J. Miller (Bison Books, 2008) illustrates how the American colonies used the Doctrine of Discovery against the Indian nations from 1606 forward. Miller’s analysis of the principles of discovery brings a new perspective and valuable insights to the study of Jefferson, Lewis and Clark, the Louisiana Purchase, the Pacific Northwest, American expansionism, and U.S. Indian policy.

- **Pagans in the Promised Land: Decoding the Doctrine of Christian Discovery**, by Steven T. Newcomb (Fulcrum Publishing, 2008) provides a unique, well-researched challenge to U.S. federal Indian law and policy. It attacks the presumption that American Indian nations are legitimately subject to the plenary power of the United States.