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THE CHARTER OF MARYLAND (JUNE 20, 1632) A MODEL OF PROPRIETARY CHARTER

by Francesca Ditifeci

This paper focuses on the analysis of *The Charter of Maryland* (1) in order to demonstrate how this document represents a model: a model of contents, — in fact it already contains *in nuce* some revolutionary elements, later embodied in the doctrine of natural law or jusnaturalism (2), which will highly contribute to achieve American Independence — and a model of language (3).

The Charter of Maryland is a proprietary charter (4) granted in 1632 by King Charles I to a single person, Cecilius (5) Calvert, second Lord Baltimore. For this reason, it differs from other types of charters, which were granted by the King to companies (such as *The First Char-*

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(1) The text I am referring to in this study is to be found in *The Avalon Project at the Yale Law School* (http://www.yale.edu/lawweb/avalon/states/ma01.htm) which represents a comprehensive source for American historical documents.

(2) As a matter of fact the Latin rooted single word better and more concisely contains the intrinsic meaning it expresses.

(3) In this study, I shall consider language as a "resource for meaning", a "system for construing meaning" rather than a "system for expressing meaning", cfr. MICHAEL A.K. HALLIDAY-JAMES R. MARTIN, *Writing Science: Literacy and Discursive Power*, London-Washington D.C., The Falmer Press, 1993.

(4) Proprietary charters were granted by the Sovereign to establish proprietary colonies in order to repay political and financial debts. Indeed, the British Crown was in debt to some powerful and wealthy persons, who used to support it when political and economical difficulties arose and the King was determined not to convoke the Parliament. The proprietary charters era began with *The Charter of Maryland*, which therefore was the first proprietary colony.

(5) His father, George Calvert, first Lord Baltimore, died in April 1632. Consequently, the charter, which was issued in June, passed to his son Cecilius, although the first effective Governor was his half-brother Leonard.

ter of Virginia granted in 1606 by King James I to the London Company and the Plymouth Company) (6).

In 1621, after purchasing some tracts of land (7) from Sir William Vaugham (8), Sir George Calvert, later first Lord Baltimore (9), began to establish a colony, the colony of Avalon at Ferryland, Newfounland, receiving a charter in 1623. But his attempt failed due to the severe climate and inhospitable conditions, so he succeeded in obtaining a new charter for a milder land north of the Potomac River, which unfortunately arrived only after his death.

The document begins with a formula commonly used as the typical introductory sentence of legal documents in general and charters in particular:

> Charles, by the Grace of God, of England, Scotland, France, and Ireland, king, Defender of the Faith, &c. To all to whom these Presents come, Greeting

and shows perfect respect of the feudal "human" pyramid (God being above and outside it and constituting the Divine Entity that directly invests the Sovereign with absolute power): the Monarch at the very top of the structure, then, noblemen, according to the importance of their title and, finally, ordinary people, at the very bottom:

> § II Whereas our well beloved and right trusty Subject Caecilius Calvert, Baron of Baltimore, in our Kingdom of Ireland, Son and Heir of George Calvert, Knight, late Baron of Baltimore, in our said Kingdom of Ireland, treading in the steps of his Father, being animated with a laudable, and pious Zeal for extending the Christian Religion, and also the Territories of our Empire, hath humbly besought Leave of us, that he may transport, by his own Industry, and Expense, a numerous Colony of the English Nation, to a certain Region, herein after described, in a Country hitherto uncultivated, in the Parts of America, and partly occupied by Savages, having no knowl-

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(6) For further reading about this type of charter and about Virginia in particular cfr. ANTONIO REPOSO, *Un antico modello del costituzionalismo americano,* in "Nuova Antologia", 1987, n. 2163, pp. 346-356.

(7) It is interesting to notice how at this time the custom of selling and purchasing lands among colonists was already quite widespread. This confirms my convinction that from an early stage colonists enjoyed a certain freedom in land property matters.

(8) When profits failed to concretize, the Newfoundland Company, established at Cupids, sold some lands to Sir William Vaugham.

(9) Sir Geoge Calvert held important offices until 1625, when he declared himself a Roman Catholic and had to resign from office. Then, he received the title of Baron of Baltimore with some lands in Ireland from King James I and became first Lord Baltimore, cfr. *http://www.mdarchives.states.md.us*, which also contains an interesting glossary of terms, *http://www.mdarchives.states.md.us./megafile/msa/speccol/sc2900/sc2908/html/glossary.html.*

edge of the Divine Being, and that all that Region, with some certain Privileges, and Jurisdiction, appertaining unto the wholesome Government, and State of his Colony and Region aforesaid, may by our Royal Highness be given, granted and confirmed unto him, and his Heirs.

The image of the feudal pyramid is linguistically underlined by:

— the evaluation markers 'well beloved', 'right trusty', 'humbly';

— the noun 'Subject' (from Middle English *soget* via Old French *suget*, Latin *subiectus* from *subicĕre*);

— the possessive adjective 'our' and the pronoun 'us' rhythmically repeated not only in the above quoted paragraph, but also throughout the whole text, which obviously are forms of *plurale maiestatis* referred to the King (10);

— the verb 'besought' which in a masterly manner emphasizes the Subject's act of imploring the King.

Officially, the first purpose of the Calverts' colonization is the propagation of the Christian Religion to those 'Savages having no knowledge of the Divine Being' (11), but the real one is the Calverts' will to establish a colony based on religious tolerance (12). This makes Maryland a pioneer colony in terms of freedom of conscience and marks the beginning of the separation of church and state in governmental policy.

The second purpose, in which the official and real aspects coincide, is "for extending [...] also the Territories of our Empire". Of course, extension and acquisition of new lands have always constituted one of the springs of colonisation, since very ancient forms of it are recorded. Other springs can be crises of different origins, either/both economic, political or/and religious, wide groups of people looking for a better form of life or forced to work somewhere else and also some

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(10) The strict order proper to a charter, an official and legal document, is fully respected. We are far from the innovative opening expression "To all People" of the *Ordinance for Virginia* (1621), where King James is mentioned only at the very end of the document, and also from the meaning of "We" at the beginning of *The Mayflower Compact* (1620) in which the personal pronoun is a proper plural pronoun referring to the Pilgrim Fathers. Of course, this is due to the completely different types of documents.

(11) This is the official purpose contained in many charters, e.g. *The First Charter of Virginia*.

(12) George Calvert wanted Maryland to become a refugee for English Catholics and also a place where Catholics and Protestants could prosper together. In 1649, *The Maryland Toleration Act* (*http://odur.let.rug.nl/~usa/D/1601-1650/maryland/mta.htm*) "opened the door to any professing Trinitarian Christianity". But "although The Toleration Act limited tolerance to Christians, the record is bare of any persecution to Jews" cfr. *Encyclopaedia Britannica*, 1965, vol. 14, p. 1000.

adventurers who invested their money in the new territories and led the migration.

Furthermore, starting from the primordial stage of migration and colonisation, the settlements have always assumed a permanent form, rather than a temporal one. In *The Charter of Maryland*, this is underlined by repeated references to Cecilius Calvert and also to his heirs, assigns and successors.

In this context, language highly contributes to the 'accomplishment' of meaning:

— adverbial expressions such as 'herein after', 'hitherto', 'aforesaid' (often alternated with the past participle 'said' used in attributive position e.g. 'in our said Kingdom of Ireland'). They are examples of textual deictics and essential elements which contribute to the development of a self-contained text, a kind of monad. The temporal reference is thoroughly included and completely explained in the document itself. Present, past and future are document-related in a self-centred, monadic perspective and become items of 'shared knowledge' (13). The above mentioned adverbial expressions mark a definite change from the past; for example, in the passage "we do nominate the same Maryland (14) by which name shall from henceforth be called', 'from henceforth' underlines the birth of something totally new (15).

— Tautologies such as 'given, granted and confirmed', typical of the language of the law (16), commonly used in order to reaffirm the same concept by repeating it with the usage of synonyms or synonymic expressions, having different roots.

— Plural and singular forms combined together are tautological expressions used in order to stress the concept, e.g. 'all and singular'.

— Epanallepsis 'And/that We ... do ...', which by the repetition of the same structure reaffirms the same idea.

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(13) For further reading on the concept of 'shared knowledge' cfr. TALMY GIVÒN, *Mind, Code and Context. Essays in Pragmatics*, Hillsdale, Erlbaum, 1989.

(14) *The Charter of Maryland CM* hereafter § VI "Now, That the aforesaid Region ... may be eminently distinguished above all other Regions of that Territory, ... Know Ye, that ... We do ... erect and incorporate the same into a Province, and nominate the same Maryland, by which Name We will that it shall from henceforth be called". It was a widespread custom at this time to name new lands after some personages, e.g. Virginia was named after Elizabeth I the Virgin Queen, Maryland after Queen Henrietta Mary, King Charles I's wife, Pennsylvania after the Lord Proprietary William Penn.

(15) This novelty is also depicted by the past participle 'distinguished'.

(16) For a comprehensive analysis of the language of the law cfr. DAVID MELLINKOFF, *The Language of the Law*, Boston-Toronto, Little, Brown and Company, 1963.

— Emphatic 'do', while marking the rhythm, reinforces the concept stated by the verb/s.

The monadic strength of this document, like any document of this kind, is also expressed by an accurate (17) definition of boundaries which emphasizes the territorial change and acquisition occurring from now on (18). Moreover, the specific geographical identification confers a more tangible image over these remote territories. But it is not simply a question of granting unto Lord Baltimore and his heirs some well defined tracts of land, it is also a matter of conferring 'all that is therein': "all and singular the Islands and Islet, Ports, Harbours, Bays, Rivers and Straits, all the Soil, Plains, Woods, Marshes, Lakes, Rivers, Bays and Straits ... with the Fishings of every kind of Fish ...; And moreover all Veins, Mines, and Quarries ... of Gold, Silver, Gems and precious Stones" (*CM* § IV). And even more important is the definition of what can be built on it:

> And furthermore the Patronages, and Advowsons of all Churches which (with the increasing Worship and Religion of Christ) within the said Region, Islands, Islets, and Limits aforesaid, hereafter shall happen to be built, together with License and Faculty of erecting and founding Churches, Chapels, and Places of Worship, in convenient and suitable places, within the Premises, and of causing the same to be dedicated and consecrated according to the Ecclesiastical Laws of our Kingdom of England, with all, and

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(17) It is obvious that the concept of accuracy has to be considered with reference to that time.

(18) *CM* § III "Know Ye therefore, that We, encouraging with our Royal Favour, the pious and noble purpose of the aforesaid Barons of Baltimore, of our special Grace, certain knowledge, and mere Motion, have Given, Granted and Confirmed, and by this our present Charter, for Us our Heirs, and Successors, do Give, Grant and Confirm, unto the aforesaid Caecilius, now Baron of Baltimore, his Heirs, and Assigns, all that Part of the Peninsula, or Chersonese, lying in the Parts of America, between the Ocean on the East and the Bay of Chesapeake on the West, divided from the Residue thereof by a Right Line drawn from the Promontory, or Head-Land, called Watkin's Point, situate upon the Bay aforesaid, near the river Wigloo, on the West, unto the main Ocean on the East; and between that Boundary on the South, unto that Part of the Bay of Delaware on the North, which lieth under the Fortieth Degree of North Latitude from the Equinoctial, where New England is terminated; And all that Tract of Land within the Metes underwritten (that is to say) passing from the said Bay, called Delaware Bay, in a right Line, by the Degree aforesaid, unto the true meridian of the first Fountain of the River of Pattowmack, thence verging toward the South, unto the further Bank of the said River, and following the same on the West and South, unto a certain Place, called Cinquack, situate near the mouth of the said River, where it disembogues into the aforesaid Bay of Chesapeake, and thence by the shortest Line unto the aforesaid Promontory or Place, called Watkin's Point; so that the whole tract of land, divided by the Line aforesaid, between the main Ocean and Watkin's Point, unto the Promontory called Cape Charles, and every the Appendages thereof, may entirely remain excepted for ever to Us, our Heirs and Successors".

> singular such, and as ample Rights, Jurisdictions, Privileges, Prerogatives, Royalties, Liberties, Immunities, and royal Rights, and temporal Franchises whatsoever, as well by Sea as by Land, within the Region, Islands, Islets, and Limits aforesaid, to be had, exercised, used, and enjoyed, as any Bishop of Durham, within the Bishoprick or County Palatine of Durham, in our Kingdom of England, ever heretofore hath had, held, used, or enjoyed, or of right could, or ought to have, hold, use, or enjoy (*ibidem*).

Apparently, no innovative entities are contained in the above-quoted excerpt. Even the language seems to reaffirm the stiff hierarchical structure which was widely followed by the mother country: 'Patronages, Advowsons, ... according to the Ecclesiastical Laws of our Kingdom of England ... , with all, and singular such, and as ample Rights, Jurisdictions ... and royal Rights...'. But a more accurate analysis reveals a revolutionary element: 'together with Licence and Faculty of erecting and founding Churches, Chapels and Places of Worship, in convenient and suitable places'. The expression 'Churches, Chapels and Places of Worship' embodies the Calverts' idea of religious toleration, which is the key idea of their colonisation. They are Catholic and Catholics are persecuted in England, so they want to found a colony where Catholics will be absolutely free to profess their own religious creed, but next to Protestants, they want to found a colony based on tolerance. Although on the one side, the King wants to confirm the absolute supremacy of the Law and Church of England, on the other side, he implicitly admits his incapability of controlling it. By declaring Lord Baltimore, his Heirs and Assigns 'True and Absolute Lords and Proprietaries', he invests them with free, full and absolute power and authority. Naturally, a feudal homage is still due to the Sovereign. It includes both a symbolic sign, 'two Indian Arrows', and a much more concrete form of payment "the fifth Part of all Gold and Silver Ore (19), Which shall happen from Time to Time to be found within the aforesaid limits (*CM* § V)". But once more the flexibility of the language reveals the flexibility of the situation: 'shall' is a flexible auxiliary which contains in itself the concepts of future, obligation and necessity (20); the usage of the verb 'happen' seems to introduce

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(19) Altough the same idea can be found, for example, in *The First Charter of Virginia*, I believe that a Proprietary Charter confers much more power to the Lord Proprietary than a Company Charter to the many people involved in it. It was much easier for a single person invested with all the powers individually rather than for a great number of people to take control of the whole situation and to preserve it.

(20) A similar flexible usage of 'shall' can be found in the Constitution of the United States, cfr. Gigliola Mariani Sacerdoti, Antonio Reposo, Mario Patrono, *Guida alla Costituzione degli Stati Uniti d'America*, Firenze, Sansoni, 1991.

something which occurs almost as a result of chance, and 'from time to time' does not indicate any precise moment.

In addition, Lord Baltimore's substantial independence from the King is constantly repeated throughout the text by a list of powers conferred upon him. He is in charge of:

— making and enacting laws; imposing fines, imprisonment and other punishment; ordaining judges, magistrates and officers; pardoning and abolishing crimes and offences (21);

— applying remedies, making and constituting ordinances (22);

— organising self-defence by arraying all men, waging war and pursuing enemies, (23);

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(21) *CM* § VII. And ... We ... do grant unto the said now Baron ... and to his Heirs, for the good and happy Government of the said Province, free, full, and absolute Power, by the Tenor of these Presents, to Ordain, Make, and Enact Laws, of what Kind soever, according to their sound Discretions whether relating to the Public State of the said Province, or the private Utility of Individuals, of and with the Advice, Assent, and Approbation of the Free-Men of the same Province, or the greater Part of them, or of their Delegates or Deputies, whom We will shall be called together for the framing of Laws, when, and as often as Need shall require, by the aforesaid now Baron of Baltimore, and his Heirs, and in the Form which shall seem best to him or them, ... and duly to execute the same upon all Persons, for the time being, within the aforesaid Province, and the Limits thereof, or under his or their Government and Power, ... by the Imposition of Fines, Imprisonment, and other Punishment whatsoever; even if it be necessary, and the Quality of the Offence require it, by Privation of Member, or Life, ... and to constitute and ordain Judges, Justices, Magistrates and Officers of what kind, for what Cause, and with what Power soever, within that Land, and the Sea of those Parts, and in such form as to the said now Baron of Baltimore, or his Heirs, shall seem most fitting; And also to Remit, Release, Pardon, and Abolish, all Crimes and Offences whatsoever against such Laws, whether before, or after Judgment passed; ... So, nevertheless, that the Laws aforesaid be consonant to Reason, and be not repugnant or contrary, but (so far as conveniently may be) agreeable to the Laws, Statutes, Customs, and Rights of this Our Kingdom of England.

(22) *CM* § VIII And forasmuch as, in the Government of so great a Province, sudden accidents may frequently happen, to which it will be necessary to apply a Remedy,... that the aforesaid now Baron of Baltimore ... may, and can make and constitute fit and Wholesome Ordinances from Time to Time, to be Kept and observed within the Province aforesaid, as well for the Conservation of the Peace, as for the better Government of the People inhabiting therein, and publicly to notify the same to all Persons whom the same in any wise do or may affect. Which Ordinances We will to be inviolably observed within the said Province, under the Pains to be expressed in the same ...

(23) *CM* § XII But because, that in so remote a Region, placed among so many barbarous Nations, the Incursions as well of the Barbarians themselves, as of other Enemies, Pirates and Ravagers, probably will be feared. Therefore We ... do Give by these Presents ... full and unrestrained Power ... unto the aforesaid now Baron of Baltimore ... to array all men, of whatsoever Condition, or wheresoever born, for the Time being, in the said Province of Maryland, to wage War, and to pursue, even beyond the Limits of their Province, the Enemies and Ravagers aforesaid, infesting those Parts by

— exercising martial law (24);

— conferring favors, honors, and titles, erecting towns and boroughs (25);

— importing and unlacing all wares and merchandizes (26);

— erecting and constituting sea-ports, harbors, creeks (27);

— levying taxes and subsidies (28).

Also the language confirms Lord Baltimore's power, freedom and authority, which are underlined by an abundant use of linguistic devices (29):

Land and by Sea, and (if God shall grant it) to vanquish and captivate them, and the Captives to put to Death, or, according to their Discretion, to save, and to do all other and singular the Things which appertain, or have been accustomed to appertain unto the Authority and Office of a Captain-General of an Army.

(24) *CM* § XIII We also ... do give unto the aforesaid now Baron of Baltimore ... Power, Liberty, and Authority, that, in Case of Rebellion, sudden Tumult, or Sedition, if any (which God forbid) should happen to arise, ... may ... exercise Martial Law ...

(25) *CM* § XIV ... We ... do give free and plenary Power to the aforesaid now Baron of Baltimore ... to confer Favors, Rewards and Honors, upon such Subjects, inhabiting within the Province aforesaid, as shall be well deserving, and to adorn them with whatsoever Titles and Dignities they shall appoint; (so that they be not such as are now used in England) also to erect and incorporate Towns into Boroughs, and Boroughs into Cities, with suitable Privileges and Immunities, according to the Merits of the Inhabitants, and Convenience of the Places; and to do all and singular other Things in the Premises, which to him or them shall seem fitting and convenient; ...

(26) *CM* § XV We will also ... give and grant License ... unto the aforesaid now Baron of Baltimore ... freely to import and unlace ... all Wares and Merchandizes whatsoever, which shall be collected out of the Fruits and Commodities of the said Province ...

(27) *CM* § XVI ... We do ... grant unto the aforesaid now Baron of Baltimore ... full and absolute Power and Authority to make, erect, and constitute, within the Province of Maryland, and the Islands and Islets aforesaid, such, and so many Sea-Ports, Harbors Creeks, and other Places of Unlading and Discharge of Goods and Merchandizes out of Ships, Boats, and other Vessels, and of Lading in the same ... and with such Rights, Jurisdictions, Liberties, and Privileges, unto such Parts respecting as to him ... shall seem most expedient ...

(28) *CM* § XVII Moreover, We will appoint, and ordain, and by these Presents, for Us, our Heirs and Successors, do grant unto the aforesaid now Baron of Baltimore, his Heirs and Assigns, that the same Baron of Baltimore, his Heirs and Assigns, from Time to Time, forever, shall have, and enjoy the Taxes and Subsidies payable, or arising within the Ports, Harbors, and other Creeks and Places aforesaid within the Province aforesaid, for Wares bought and sold, and Things there to be laden, or unladen, to be reasonably assessed by. them, and the People there as aforesaid, on emergent Occasion; to whom We grant Power by these Presents, for Us, our Heirs and Successors, to assess and impose the said Taxes and Subsidies there, upon just Cause and in due Proportion.

(29) Only a few of them are here given.

— evaluation markers - 'the *true* Lord and Proprietary', *'full and unrestrained* (30) Power', 'the *fullest* power',

— tautological expressions - '*Ordain, Make* and *Enact* Laws',

— several items of flexible and adaptable language - 'according to their *sound Discretions*', where the possessive adjective 'their' reinforces 'Discretions', an already strong subjective noun; *'shall seem best to him'* in which the subjective strength is expressed by both the flexible auxiliary 'shall' and the copulative verb 'seem', the superlative 'best' linked 'to him', similarly *'shall think proper'; 'necessary'; 'fitting', 'convenient', 'suitable', 'proper'* according to him.

However, if Lord Baltimore's power is practically absolute in relation to the Crown, as I mentioned above, it is partially limited by the people. Indeed, it is true that he has absolute power to enact all Laws, but only with the "Advice, Assent and Approbation (31) of the Free-Men of the same Province or the greater Part of them, or of their Delegates or Deputies". This primary democratic element is shared by some colonial documents, but acquires particular importance in a proprietary colony, where the risk of establishing a tyranny is higher than in company colonies. It constitutes a good start towards democracy.

As a matter of fact, the second revolutionary element to be found in this charter is the question of property, which primordially anticipates Locke's theory (32). The two revolutionary concepts contained in the document — freedom of religion and property — seem to be developed according to a symmetrical structure. As I have previously asserted with reference to religion, a superficial reading would reaffirm the stiff hierarchical structure followed in the mother country. This is applicable to property too. Indeed, paragraph five refers to one of the most typical feudal property-related institutions:

> To Hold of Us, our Heirs and Successors, Kings of England, as of our Castle of Windsor, in our County of Berks, in free and common Soccage, by Fealty only for all Services, and not in Capite, nor by Knights Service... .

Thus, Lord Baltimore and his Successors have the "limited" power of having, holding and possessing these lands; in other words, they are entitled to have rights over them, but not absolute property. Actually, according to the fundamental Common Law principle, the Monarch is the only one "authorized" directly by God to own absolute

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(30) This is also a tautology.

(31) The climax and allitteration highly contribute to create the importance of power vested in the people.

(32) Cfr. JOHN LOCKE, *Two Treatises of Government*, Cambridge, CUP, 1988.

property. The pyramidal structure seems to be fully respected: God invests the King with property, then the King grants rights to His Lords and eventually the Lords give some rights to their Tenants 'in free and common Soccage', with the payment of a rent, that is not of the incidents, bound to knight-service (33), and alienable, not limited to an individual. All of them are tied by a sacred knot of 'fealty' to the King.

But almost at the end of the document (34), notwithstanding the common feudal property frame (35), some innovative seeds are to be found: Lord Baltimore has full and absolute Licence, Power and Authority to "assign, alien, grant, demise, or enfieff" tracts of land to any Person or Persons willing to purchase them. Lord Baltimore is totally free and responsible for selling lands to those who want to. What comes to be fulfilled in Maryland is freedom on both sides: freedom of selling and freedom of purchasing, without direct royal assent or action, as Lord Baltimore shall think "fit and agreeable, and not immediately of Us".

We come to face two fundamental key concepts which John Locke some years later will consider as necessary for the establishment of a civil society: LABOUR and PROPERTY. It is the combination of the two elements which finds fertile ground and takes root in the colonies. It is labour which makes land fruitful and entitles a person to

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(33) Cfr. FRANCESCO DE FRANCHIS, *Dizionario giuridico inglese-italiano, English-Italian Law Dictionary*, Milano, Giuffré Editore, 1984, under the voices: 'soc(c)age', 'incident', 'knight-service'.

(34) *CM* § XVIII ... We ... do give, grant and confirm, unto the said now Baron of Baltimore ... full and absolute License, Power, and Authority, that he ... from Time to Time hereafter, forever, may and can ... assign, alien, grant, demise, or enfeoff so many, such, and proportionate Parts and Parcels of the Premises, to any Person or Persons willing to purchase the same, as they shall think convenient, to have and to hold ... in Fee-simple, or Fee-tail, or for Term of Life, Lives or Years; to hold of the aforesaid now Baron of Baltimore ... by so many, such, and so great Services, Customs and Rents of this Kind, as to the same now Baron of Baltimore ... shall seem fit and agreeable, and not immediately of Us ...

"... Fee-simple, or Fee-tail, or for Term of Life, Lives, or Years" are different types of rights on property. Fee simple is the most complete form, very close to Freehold today, whereas Fee-tail is restricted to special forms, such as Male-tail, Female-tail or Special-tail. For a more detailed analysis cfr. FRANCESCA DITIFECI, *La terminologia della proprietà e del possesso nel diritto inglese*, in MICHELE INGENITO (ed.), "Didattica della lingua inglese nelle facoltà non umanistiche", Napoli, Edizioni Scientifiche Italiane, 2002.

(35) This frame is also reflected in Lord Baltimore's Licence "to erect any Parcels of Land within the Province aforesaid, into Manors, and every of those Manors, to have and to hold a Court-Baron, and all Things which to a Court Baron do belong;" (*CM* § XIX). Cfr. JOHN JOHNSON, *Old Maryland Manors*, Baltimore, The Johns Hopkins University, 1883.

property. In *The Second Treatise of Government-Of Property* (36), Locke will affirm that God has given the World to Men in common, but He has also given them reason to use it to the best advantage of LIFE. The Labour of his Body and the Work of his Hands are every Man's Property. Through them, he will be able to improve the original State of Nature for the Benefit of Life. Improvement is what entitles Man to Property. In America there are many "vacant places" to be developed and improved by Labour, which is what "*puts the difference of value* on every thing". It is Labour which "*puts the greatest part of Value upon Land*, without which it would scarcely be worth any thing".

In conclusion, *The Charter of Maryland* is to be considered a typical XVII century charter, containing all the ingredients necessary for it:

— the supremacy of the King;

— the apparent dependence of Lord Baltimore on the Crown, notwithstanding his power and authority. He is still subject to the "Crown of England and dependent on the same forever" (*CM* § XXI), establishes a new colony modelled after the county Palatine of Durham and organizes Maryland in Manors with respect to the original feudal structure;

— the imposition of the Church of England;

— the feudal homage to the Sovereign.

But several components come to coexist at the same time in the same place, bestowing on the document all its innovative strength and anticipating a number of Locke's fundamental principles, such as 'PROPERTY', 'LIFE', 'LABOUR', 'INDEPENDENCE', 'LIBERTY', whose first seeds can be seen in

— vast uncultivated lands (PROPERTY),

— numerous people willing to settle down permanently (LIFE), to purchase land which is alienable (PROPERTY) and to meliorate it by their work (LABOUR),

— primitive form of self-government (INDEPENDENCE),

— existence lived far away from the mother country (LIFE),

— consequent royal impossibility of totally controlling it (INDEPENDENCE),

— Proprietary's full and absolute power in all possible matters, from taxation to land prerogatives (INDEPENDENCE),

— religious tolerance (LIBERTY).

These are the very primitive elements which will subvert and

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(36) Cfr. JOHN LOCKE, cit., pp. 285-302.

overthrow the old feudal pyramid, establishing a new one, where the King's interference in the relationship between Man and God is no longer "needed", where human beings are at the top of the pyramid itself and have a direct liaison with God, who grants them directly some rights, as Locke will accurately explain some years later.

Riassunto — Questo articolo analizza *The Charter of Maryland* (1632) al fine di dimostrare come questo documento costituisca un modello, sia dal punto di vista del contenuto, sia dal punto di vista della lingua.

Per la prima volta un Re, Carlo I, concede una Carta ad un singolo individuo. Questo è di una importanza straordinaria in quanto il Signore Proprietario, in questo caso Cecilius Calvert, acquista un potere ed una autonomia immensi nei confronti del Re, affiancato comunque nel governare la colonia dai *Freemen*, fatto che non solo impedisce l'instaurarsi di qualunque forma assolutistica, ma segna l'avvio verso forme di governo democratiche.

Due sono gli elementi rivoluzionari contenuti nella Carta: la tolleranza religiosa e il concetto di proprietà. I Calverts, essendosi convertiti al cattolicesimo, volevano fondare una colonia basata sulla libertà di coscienza, dove Cattolici e Protestanti potessero convivere tranquillamente. Il concetto di proprietà, pur rispettando formalmente tutti i canoni propri della *Common Law*, comincia a subire dei cambiamenti e lascia intravedere alcuni aspetti che saranno propri della dottrina di J. Locke.

La lingua mette sapientemente in atto questi elementi rivoluzionari.