

A PRIVATE SALE OFFERING

# AS NEAR *to* HEAVEN

THE CONTRACT FOR THE FIRST BRITISH COLONY IN NORTH AMERICA



Sotheby's EST. 1744

the book is in good  
condition & is in good  
condition & is in good  
condition & is in good  
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Witnessed & sealed of the said made concluded and agreed upon  
the first day of June in the seventh year of the reign of  
the said Lady Elizabeth by the grace of God Queen  
of England France and Ireland Defendess of the faith  
Bertram Esq<sup>r</sup> Humphrey Gilbert Esq<sup>r</sup> of Compton in the county  
of Devon knight on the one part And the said Thomas  
Edwards Esq<sup>r</sup> of Brom in the county of Lancashire knight  
And the said George Parkyn Esq<sup>r</sup> of Doncaster in the county  
of York knight on the other part to the said

In witness whereof the said Conscience Lady the said made by

the said Letters patent under the great Seal of England

bearing date at western the fifth day of June in the seventh year of

the said Queen Elizabeth given and granted unto the said

Humphrey Gilbert Esq<sup>r</sup> his heirs and assigns for ever full power

from time to time and at all times hereafter power to discover

find out and remove such remote heathen and barbarous lands

habitants and territories not actually possessed of any Christian prince

or people as to him his heirs and assigns and to enjoy and mine of



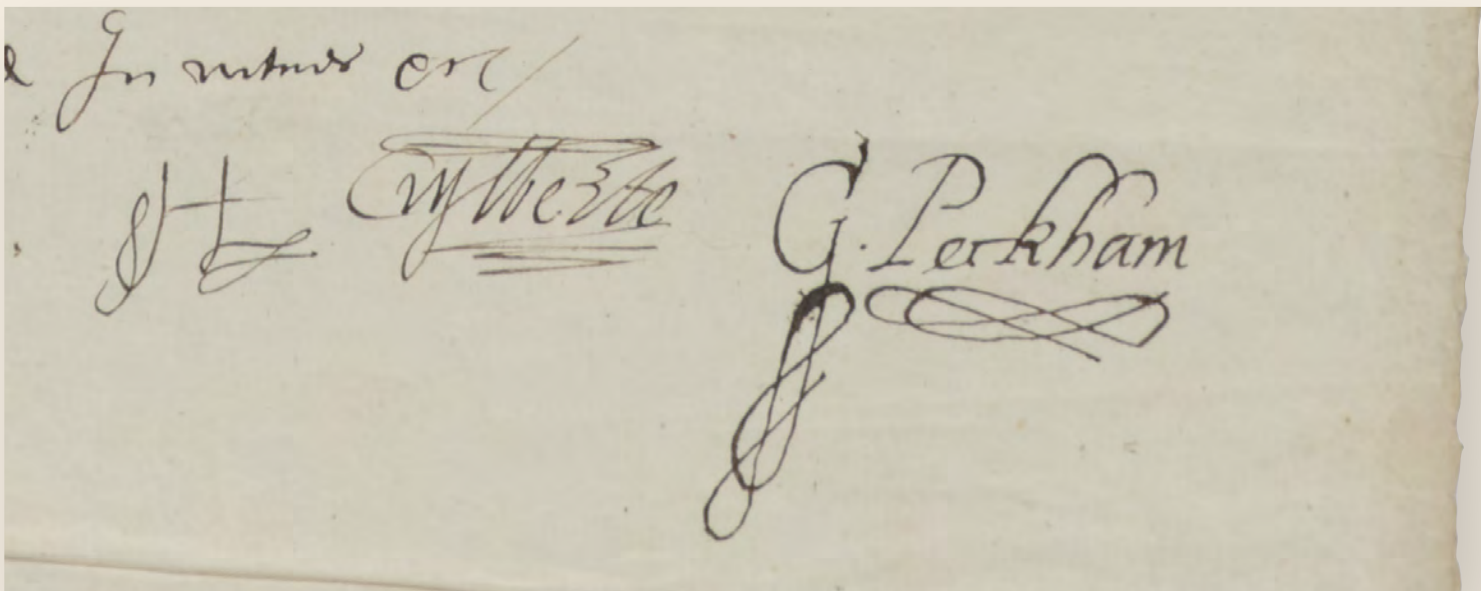
[AMERICA] — SIR HUMPHREY GILBERT

ARTICLES OF AGREEMENT, ASSIGNING TO SIR HUMPHREY GILBERT  
1,500,000 ACRES OF LAND “FOR DISCOV[ER]YE AND HABYTINGE OF  
CERTAYNE P[AR]TES OF AMERICA,” 6 JUNE 1582

13 pages, large 4to, unbound but tied at head, written recto only in secretary hand in sepia ink, titled “Articles trip[ar]tite Indented of Agreement made concluded and agreed uppon the syxt daye of June in the xxiiijth yere of the Reigne of o[u]r Soveraigne Ladye Elizabeth . . . “ at head of first page, probably by Gilbert, followed by “this booke is agreed uppon & Ingrossed for Isilandes & xvcn acres of ground”, with “ther are leves in this booke thyertyen in all” and “I think this to be very well & according to trewe mening Thomas Harris”, endorsed “ingrosseyt” at the end, with a modern stamp, and signed in full by Sir Humphrey Gilbert and Sir George Peckham, and initialed by Gilbert at the foot of each leaf, with revisions and corrections throughout possibly by Gilbert, dated 6 June 1582; some occasional smudging and spotting, wear commensurate with age.

*One of the most significant documents relating to the colonization of the New World—the contract that made British settlement in North America possible.*

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- One of the most important business contract in Western history
- The document that made English settlement in North America possible
- A landmark document in the history of Canada
- The beginning of the English Empire
- A key document in the establishment of commercial rights in the New World





Queen Elizabeth I, "The Armada Portrait" (circa 1588, Woburn Abbey)

## DREAMS OF EMPIRE

The Articles present here are the first grants of land in America by an English governing body, with Sir Humphrey Gilbert having obtained from Queen Elizabeth a six-year patent to "inhabit and possess at his choice all remote and heathen lands not in actual possession of any Christian Prince":

*"... Whereas ... the queries ma[jes]tie ... Hathe geven and graunted unto ... S[i]r Humfrey Gilbert ... free Lyb[er]tie ... to discover serche fynde oute and vewe, such remote heathen and barbarous Landes countries and territories not actuallie possessed of anie xpen [i.e. Christian] prince or people ... W[i]th all com[m]odyties Jurisdicons and Realties bothe by Sea and Lande ..."*

The search for the Northwest Passage was a popular pursuit in the Elizabethan period, and in June of 1576, Martin Frobisher sailed from England in command of three small vessels, only one of which reached America. The ship and its crew passed along the Labrador coast, crossed the Hudson Strait, and coasted along Baffin Land, ultimately entering the inlet now known as Frobisher's Bay. Frobisher took back a large stone, and upon his return to England, an assayer claimed that it contained gold. As a result of this, Queen Elizabeth I, along with influential members of her court, heartily supported another voyage to America, eager to claim and exploit its uncharted landscape and the bounty it seemingly promised. The Company of Cathay, of which Fobisher was a





Sir Humphrey Gilbert (possibly by Magdalena de Passe, line engraving, 1620, National Portrait Gallery, London)

shareholder, was to have a monopoly on all lands to the west where Englishmen had not traded before. Expeditions in search of gold were sent out under Frobisher in 1577 and 1578, but the rocks which were brought back proved to be worthless.

Sir Humphrey Gilbert was also among those interested in—indeed, obsessed by—the search for a northwest passage, and his education and professional experience made him an ideal candidate for such an endeavor. Gilbert attended Eton and to Oxford, and following his education was, for some time, in the service of the Princess Elizabeth. Following her accession to the throne, Elizabeth I continued to show him her favor. In 1562–63, Gilbert served with an English force at Havre-de-Grâce (what is now Le Havre), where it is believed he met a Frenchman who had been across the Atlantic, and who sparked an early interest in the possibilities America held.

On his return to England from France, Gilbert began to study approaches to more academic, technical geography, eager to ascertain the possibility of a sea passage by the northwest of America to Asia. In 1565, he petitioned Elizabeth I to allow him and his brothers, John and Adrian to try to find such a route. His request, however, was not unrivalled, and Gilbert had to argue the merits of his claim against Anthony Jenkinson's before the queen. Though the two men agreed to cooperate, this truce never really came to fruition, and by 30 June 1566, Gilbert had completed his own treatise (later revised), *A discourse of a discoverie for a new passage to Cataia*, which was meant to prove the existence of a northwest passage. His geography blended the ingenious alongside the absurd, but with his impressive cartographical claims, Gilbert had also set forth ambitious plans for trade with Asia, whereby he would utilize North America on his way. He, in essence, viewed a colony in America as a potential mid-way point, which could be set up





Sir Humphrey Gilbert's map of the world, 1576

“about the Sierra Nevada.” He also regarded trade with North American Indians as potentially good and profitable in and of itself.

Gilbert had worked with Sir Henry Sidney in planning the large-scale Ulster settlement, and in making colonizing proposals for Munster. Although Ulster and Munster were not, in fact, executed during Gilbert’s tenure with the projects, the idea of exploiting

unlimited land remained with him, and appeared later in his plans for America. Thus, having garnered maritime, cartographical, and planning expertise, Michael Lok and Martin Forbisher had consulted Gilbert about their plans from 1574 onwards, as they sought to establish a company that would utilize the mythical Northwest Passage. Indeed, by 1576, Gilbert was looked to as an authority on America, and he, in turn, did his utmost to rise to his reputation.

*“Whoever commands the sea, commands the trade;  
whosoever commands the trade of the world commands the riches  
of the world, and consequently the world itself.”*

Sir Walter Raleigh





An early engraving of John Dee court astronomer for, and advisor to, Elizabeth I

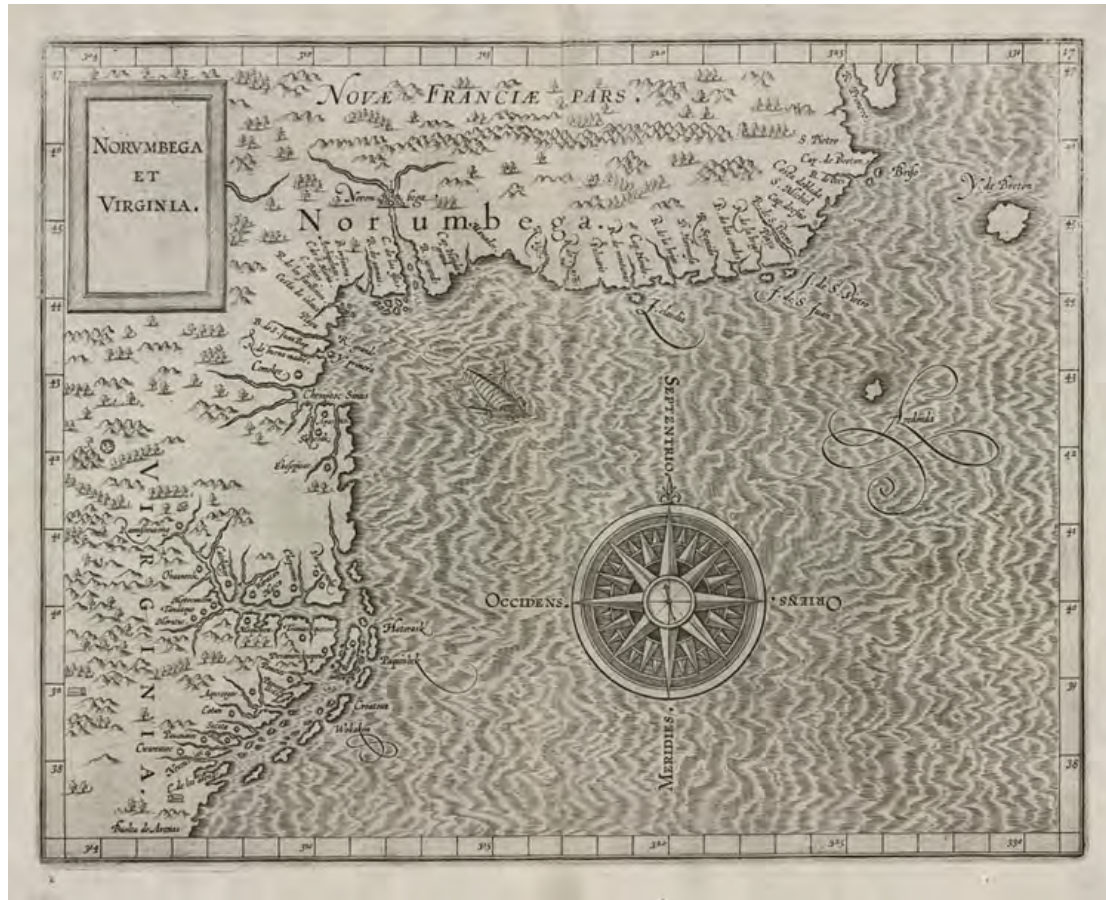
On 11 June 1578, Elizabeth I granted Gilbert a patent to, within the subsequent six years, discover and occupy a site for a colony not already in European hands (i.e. land separate from Spanish Florida), and North America was, of course, his aim. Almost immediately, Gilbert began to plan his voyage across the Atlantic, and in doing so sought advice from Dr. John Dee (an alchemist, astrologer, astronomer, mathematician, and practitioner of the occult arts), the elder Richard Hakluyt (who advised that Englishmen should settle between 35° and 40° north because of its agreeable climate), and Sir Francis Walsingham (the Secretary of State at that time). By November of 1578, Gilbert had assembled ten armed vessels, and a crew of pirates, some of whom had been granted stays of execution so that they might support Gilbert. Perhaps unsurprisingly, this plan quickly unraveled. Many of the men were reluctant to view Gilbert as a figure of authority, and before he'd even left England's shores behind him, Henry Knollys had commandeered three ships for the purposes of piratical cruises. The remaining fleet set sail from Plymouth on the 18th of November, but were quickly forced to turn into Cork Harbour—or return to England all together—as they were leaking and deemed unseaworthy (though, there have been reports of two more ships altering their courses for the purposes of piracy). The result of this calamitous attempt was to shift Gilbert's attentions from the southeastern portion of North America, to New England and Newfoundland.

## GILBERT SETS HIS SIGHTS ON NEW ENGLAND AND NEWFOUNDLAND

By this point, Gilbert had sunk all his money in the project—indeed, had sold his lands and spent his wife's jointure—and he was forced to devote the next five years to raising funds for a voyage before his charter ran out in 1584. The result was the present agreement:

*“... Nowe the said S[i]r Humfrey Gilbert aswell for the more spedie executinge of her Ma[jes]ties said graunt and the inlargement of her Ma[jes]ties Domynions and gov[ern]m[en]t and also for the better incoragem[en]t of the said S[i]r Thomas and S[i]r George ... fas participants [with him] ... And in consideracon that . . . [they] have disbursed dyvers somes of money, and adventured the same as principall adventurers w[i]th the said S[i]r Humfrey towardses his nowe intended voyage for discov[er]y and habytynge of certayne p[ar]tes of America ... S[i]r Humfrey ... doth graunt to . . . [them] ... aucthorytie ... to discov[er] ... all those Landes and Isles lyinge or beinge uppon that p[ar]te of America betweene the Cape of fflorida and Cape Bryton ... and [to their] owne onelie use ... two Isles or Islandes of anie foure by them to be taken or named beyng no parte of the now supposed contynent ... And also so muche and suche quantytie of the said Landes w[i]thin the supposed continent lyinge as nere unto the said twoe Islandes as convenientlie maye be as shall amount to the nomber and quantytie of fyfteene hundreth thowsand acres of ground ... Holdinge [them] of the said S[i]r Humfrey ... payinge ... [him] ... for every of the said ij Isles yerelie ... Ten poundes sterlinge. And two fifte p[ar]tes of all the golde silver pearle and pretious stones there growinge founde and gotten ... [and after seven years fifteen pence for each 1,000 acres] ...”*

In the Articles of Agreement, all jurisdictions and trading rights are granted to sir George Peckham and Sir Thomas Gerard, the principal adventurers accompanying Gilbert on his voyage of 1583. Only by these means was Gilbert able to set sail on 11th of that June with a fleet of five ships: *the Delight*, *the Raleigh*, *the Golden Hind*, *the Swallow*, and *the Squirrel*. By other agreements, Sir Philip Sidney and



Norumbega et Virginia (Cornelius Wytfliet, 1597)

Dr. John Dee became parties to Gilbert's enterprise. The aim was to reach North America, and return within three months, setting out an ambitious timeline for Gilbert and his crew.

### THE MYTH OF NORUMBEGA

Dee had made it clear to Gilbert that his objective ought to be the River of Norumbega, in Verrazzano (or what is now Narragansett Bay, Rhode Island). Norumbega (or Nurembega), was a mythical settlement positioned along the eastern coast of North America—roughly where New England is located—which frequently appeared on maps from the 1500s until the colonization of America. Legend held that that houses of Norumbega had pillars made of gold, and that its inhabitants carried quartz and pearls on their heads. It is perhaps worth noting that Dee himself had acquired Gilbert's rights to all land north of 50°, a boundary that would have included Newfoundland, the majority of the St. Lawrence valley, Labrador, and—most importantly—the Northwest Passage as shown on Gilbert's map of 1580, suggesting that Gilbert had, at least initially, intended to establish his settlement south of 50°.

To his potential supporters, Gilbert lauded the expanses of fertile land and the salubrious climate of North America, which, according to him, was just waiting to be occupied by Englishmen. He would even (for a small sum, of course) grant them title to their estates, a proposition that proved particularly appealing to English Roman Catholics, who were subject to hefty fines as recusants if they declined to convert to the Church of England. Peckham and Gerrard were poised to reap the greatest benefits from the scheme, and did their utmost to rally their fellow religionists behind Gilbert. The port town of Southampton was awarded a trading monopoly from the future colony, and a commercial corporation was also planned in order to control the flow of settlers and goods between England and North America, once Gilbert had settled himself in the new colony, of course. With all this in place, Gilbert had truly—and rather incredibly—laid the groundwork for establishing a successful English settlement in North America.

### GILBERT SETS SAIL

However, Gilbert's meticulous plan hit yet another snag when the Catholic contingent he had relied





Allegory of America (from the Four Continents, by Adriaen Collaert, late 16th Century)

upon so heavily was destabilized as a result of the influence of clergy members, and of Spanish agents who sought to dissuade potential settlers by accusing them of disloyalty, or through suggesting they would be met with danger in these uncharted lands. Because of this, the expedition that was planned under Catholic sponsorship, never raised sail. Despite these significant setbacks, the topic of North America remained a popular one, and Gilbert's obsession with it never wavered. Richard Hakluyt (the younger, in this instance) had been charged with gathering any information he could on that

land, and the result was his *Divers voyages touching the discoverie of America* (printed in May of 1582), which brought together material ranging from John Cabot's 1496 patent, to Ribault's account of the 1562 Florida colony. Rather helpfully, Hakluyt's work also offered tips on colonization, as well as a register of commodities available in America. David Ingram, Simon Fernandez, and John Walker had embarked on a voyage in 1580, and landed in either what is now Penobscot, or the Bay of Fundy, and were subsequently questioned by Walsingham, on whom Gilbert relied for official governmental support of his

*“The art of Navigation demonstrates how, by the shortest good way, by the aptest direction, and in the shortest time, a sufficient ship, between any two places (in passage navigable) assigned, may be conducted; and in all storms and natural disturbances chancing, how to use the best possible means, whereby to recover the place first assigned.”*

John Dee



project. In many respects, America, more than ever, was a reality, and Gilbert remained the man poised to claim it for England.

John Dee (who, having studied with Gerard Mercator, claimed cartography as one of this many skills) had made a “detailed” map of North America for Queen Elizabeth in 1580, and Gilbert was well acquainted with it. This map sought to draw together and reconcile all of the knowledge related to that mysterious land that was then available to Englishmen. In addition to it, Gilbert also commissioned Dee to produce for him a circumpolar map (which sold at Sotheby’s London, 23 April 1928,

lot 78). Beyond this, Gilbert was given instructions that would enable him to more accurately chart the coast of North America, and ultimately create a survey that would include its natural resources. This degree of scientific focus and planning suggests that Gilbert was seeking to garner a more practical, technical understanding of America’s uncharted landscapes. Thus equipped, he planned to finally set sail in the spring of 1583, though Elizabeth I cautioned that as “a man noted of not good happ by sea,” he ought to stay behind. By mid-March, however, the queen’s position had softened, and she sent him a token of her goodwill in the form of “an ancor guyded by a Lady.”



The mission at Newfoundland, where Gilbert took possession of the surrounding lands and fishing waters in the name of the British Crown.





An engraved portrait of Sir Walter Raleigh (Simon van de Passe, 1621)

## THE FIRST BRITISH COLONY IN NORTH AMERICA IS ESTABLISHED — GILBERT DIVIDES THE COMMERCIAL RIGHTS

Gilbert departed England's shores on 11 June 1583, and by 23 July, his small fleet had nearly reached the coast of Newfoundland. When they arrived at the port, the crews of 36 ships had been enlisted to bar Gilbert's passage (this was motivated by piratical aims), but he proffered his royal commission, and they were promptly offered entry. In turn, Gilbert issued each of the vessels in the harbor certificates that allowed them to keep fishing, wasting no time in establishing his rule. He formally took possession of Newfoundland on 5 August, thus establishing the first British colony in North America. Merchants and fisherman gathered before Gilbert, and piece of turf was presented to him, which was meant to be emblematic of his title to the land. He proclaimed it

to be the queen's in perpetuity, and despite his earlier support of Catholic causes, commanded that all inhabitants were required to conform to the Church of England. Following this, Gilbert and some of his crew—many of whom were in bad shape by this point—set about exploring the land, primarily searching for sign of minerals.

In early September, Gilbert and his surviving crew, began their return journey across the Atlantic. As the fleet neared the English coast, however, Gilbert's ship was swallowed by rough seas. It is noted that, with a book in his hand, he called out: "We are as neare to Heaven by sea as by land." Before meeting this dramatic end, Gilbert had been pleased with the prospects of Newfoundland, and had planned to return there in 1584. His ambitious vision for British colonization in America was ultimately most closely realized later in the settlement of Maryland.

*"We are as near to Heaven by sea as by land."*

Sir Humphrey Gilbert



## RALEIGH TAKES THE PATENT, AND ADVENTURERS SETS THEIR SIGHTS ON NEW ENGLAND

Sir Walter Raleigh, Gilbert's half-brother, had Gilbert's patent reissued in his name or favor in 1584, but with Newfoundland excluded. Theoretically, following Gilbert's death, Newfoundland should have been governed by Sir John Gilbert (his brother), and Peckham. But after sending ships there in 1584, Sir John found that controlling its fisheries was impractical, and he didn't attempt to enforce his claim on the land. By this point Peckham had been abandoned by most of his Roman Catholic supporters, and was charged as a recusant and subsequently imprisoned.

Remarkably, because of because of Gilbert's efforts, the attention of England and its adventurers, was focused on New England and the Atlantic provinces

as prime areas for permanent settlements. Fundamentally, Gilbert's voyage laid the groundwork for the colonization that began to happen under James I. Today, a monument that stands in St. John's, Newfoundland, reads: "Close to this commanding and historical spot Sir Humphrey Gilbert landed on this day on the 5th of August 1583 and taking possession of this new found land in the name of his sovereign Queen Elizabeth thereby founded Britain's overseas empire." Beyond this, Gilbert proved that English colonies in North America was possible, opening the way for Raleigh and others to settle them.

A document of unparalleled importance, marking the establishment of the English Empire and the first steps toward the foundation of New England.



John Dee's circumpolar map, created for Gilbert (ca. 1582)









Newfoundland Plaque

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## LITERATURE

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## PROVENANCE

Sotheby's London, 1964, lot 278



## ENQUIRIES

### RICHARD AUSTIN

Senior Vice President

Head of Department

Richard.Austin@sothebys.com

### DR. KALIKA SANDS

Associate Specialist

Kalika.Sands@sothebys.com

+1 212 606 7385

[sothebys.com/books](https://sothebys.com/books)

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