

respect it did not profess to alter, or to stipulate for anything; throughout it speaks of waters, which are by nature navigable; and regulates the terms and manner in which the natural navigation is to be conducted by the citizens of the contracting parties. The first nine articles cannot possibly be applied in any other way. The tenth establishes certain regulations respecting piracies, crimes, and offences, and for any violence, injury, or trespass, to or upon the property, or lands of the other adjacent to the said bay or river, &c. Piracy is a name given to no offence committed within the body of a county; but only to crimes upon bays and rivers, or any tide-water, considered as an arm of the sea, not within the body of a county; but originally and properly within the jurisdiction of the admiralty. This provision respecting piracy, therefore, clearly confines the whole article to acts done on tide-water, or abroad, and not within the body of any county; and of which the Courts of common law could not otherwise have jurisdiction. The eleventh article speaks of the ports of the Potomac, certainly on tide-water, for there could be none above; and of persons flying from justice. This again, must have been upon the tide-water, and not within the body of any county; because the whole of the river, above tide, not being navigable, or a common highway, was within the bodies of the respective adjacent counties; and could afford no sanctuary to those who should flee from the justice of the municipal law; since they would be there fully within reach of process from the Courts of common law of the State to which the river belonged. The twelfth article relates to the transportation of the effects of the citizens of each State across the river free of duty. But it could not be necessary to extend this provision higher than the tide; because a similar stipulation had been previously embodied in the Act incorporating The Potomac Company. 1784, ch. 33, s. 19. There is, therefore, nothing in this compact, which relates in any manner whatever to the River Potomac above tide-water. *Instructions to the Commissioners of Maryland, Votes and Pro. H. Deleg. 22 Dec. 1777; 1784, Resol. 22; 1785, ch. 1.*

127 * This compact, of the 28th of March, 1785, is confined exclusively to matters of jurisdiction and navigation; it leaves the territorial rights of the parties untouched. In rivers flowing through conterminous States, a common use is presumed; if there be no proof of a peculiar property excluding the universal or the common use. *Vattel, b. 1, c. 22; The Twee Gebroeders, 3 Rob. Ad. Rep. 339; Wright v. Howard, 1 Cond. Chan. Rep. 95; Handly's Lessee v. Antony, 5 Wheat, 375, Landhold. Ass. 170.* But, in this instance, there is the most satisfactory evidence of an exclusive right. The boundary, called for in the charter to the Lord Proprietary of Maryland, is from "the first fountain of the River Potomac, thence verging towards the south unto the further