

In the year 1785 the General Assembly of Maryland by Chapter 1 of the Sessions Laws of that year gave the consent of the State of Maryland to what has since been known as the Compact of 1785 by the States of Maryland and Virginia.

At the time there were two main elements of consideration leading to the agreement between the two states. On the part of Virginia, it was that the State of Virginia should relinquish her right to charge tolls for vessels going to and from Maryland and passing through the Virginia Capes. On the part of the State of Maryland, it was that citizens of Virginia were given rights of use, navigation and jurisdiction in the waters of the Chesapeake Bay and of the Potomac and Poocomoke Rivers.

The necessity for some such agreement in the year 1785 can be well understood by recalling the political status of the two states at that time. It was prior to the adoption of the Constitution of 1789 which created the present National Government. In 1785, the States of Maryland and Virginia were loosely joined under the Articles of Confederation. According to the prevailing political philosophy at that time, they held themselves in all respects as sovereign states. There can be little doubt, therefore, that at the time the Compact of 1785 had no binding legal force.

Following the Convention of 1789, important parts of the Compact of 1785 immediately were superseded and have since been obsolete. Obviously those Articles of the Compact having to do with Maritime matters and with inter-state trade concerned areas of jurisdiction which were given to the Federal Government and thenceforth were beyond the competence of the individual States.

For over one hundred years, the State of Virginia has recognized that part of the Compact is superseded. At least as far back as the year 1849, the State of Virginia in its Code has set forth only Articles 7, 8, 10 and 11 of the Compact and has regarded the others as obsolete and of no further force.

The four Articles retained in the Virginia Codes since 1849 have concerned respectively property rights of lands abutting the Potomac River, fishing laws in the Potomac and Poocomoke Rivers, the punishment of crimes permitted in certain parts of the Chesapeake Bay and on the Potomac and Poocomoke Rivers, and the attachment of vessels for debt.

Despite the very clear recognition on the part of Virginia that important parts of the Compact had been superseded and made obsolete by the Federal Constitution—which action could well be construed as a formal abrogation of the entire Compact on the part of the State of Virginia—the State of Maryland thus far has made no formal move toward the repeal of its acquiescence to the Compact of 1785.

The greatest area of conflict between the two States under the Compact of 1785 has been in the Potomac River and has concerned the oyster fisheries therein. Maryland owns the entire bed of the Potomac River to the low water mark on the Virginia Shore. The State of Maryland and its citizens have been deeply and vitally concerned over the preservation of the great natural resources to be found in the waters of the Potomac River. For long years, however, the citizens of the State of Maryland have witnessed a flagrant and callous disregard on the part of citizens of Virginia and on the part