

Virginia to the back lands, hath no foundation in justice; and that if the same or any like claim is admitted, the freedom of the smaller states, and the liberties of America, may be thereby greatly endangered."

It is manifest that Virginia had no authority to give, take away, or reserve, any portion of the country which was within the limits of Baltimore's charter. But that part of her constitution may be fairly and properly construed to be an express recognition of the right of Maryland to all the territory contained "within the original charter from the King of Great Britain to Lord Baltimore." The compact of seventeen hundred and eighty five, between the two states, was made to regulate and settle the jurisdiction and navigation of the Potomac, leaving the single question of the first fountain of that river open, to be settled by some other negotiation. It is indeed, matter of great surprise to your committee, that the Maryland Commissioners, at the time of that compact, did not make the decision of that single question preliminary to every other arrangement.

5th. In obedience to the request of the senate, expressed in the fifth resolution, your committee, upon enquiry, found in the Land Office of this state, a survey of the two branches, which appears to have been made by Colonel Cresap, some time in the year of our Lord one thousand seven hundred and seventy one. The survey was evidently made with the knowledge and approbation of the proprietary, and probably under his express direction; but for what purpose it does not distinctly appear. But if made with fidelity, of which there is no reason to doubt, from the well known and established character of Colonel Cresap, it illustrates, and has established beyond all reasonable doubt, that the South Branch flows from the first fountain of the Potomac. "It presents a very accurate view of the courses of the two branches, through the heads of which meridians are drawn, for the purpose of determining their relative extent to the west. From the year seventeen hundred and fifty-three, it appears to have been continually held on the part of Maryland, that the South Branch was the most western source;" and therefore the first fountain: "But the survey of seventeen hundred and seventy-one appears to have been the first actual examination and survey of the two branches, which was made with this view. The papers connected with the settlement of the expenses of the survey, shew that it was made under