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Doq. Cht. No 78-1

Form 504 Ed. June, 1928	
DEPARTMENT OF COMMERCE	
U. S. COAST AND GEODETIC SURVEY	
....., Director U. S. COAST & GEODETIC SURVEY	
LIBRARY AND ARCHIVES	
OCT 6 1932	
State: Md. & Va.	Acc. No.
DESCRIPTIVE REPORT	
Topographic } Hydrographic }	Sheet No. 1319 1319a 1319b
LOCALITY	
Chesapeake Bay Boundary Line	
Between Md. & Va.	
.....	
1877	
CHIEF OF PARTY	
W. J. Twining	

IN REPLY ADDRESS THE DIRECTOR
U. S. COAST AND GEODETIC SURVEY
AND NOT THE SIGNER OF THIS LETTER

DEPARTMENT OF COMMERCE
U. S. COAST AND GEODETIC SURVEY
WASHINGTON

AND REFER TO No.

H. 1319 b

This copy of Chart No. 33 with indorsement of J. Thomas Scharf, Commissioner of Land Office certifying that it is a true copy of the Map accompanying the Award of the Commissioners was recently found in the Library files.

In order to consolidate all of the data bearing upon the Maryland-Virginia boundary line it has been this day filed as H. 1319b.



June 1, 1933.

Chief, Section of Field Records.

A true copy
W. B. Chilton

(Copy)

Coast Survey Office

Washington, June 2^d, 1876

Hon. R. T. Daniel.

re. re. Richmond

Dear Sir -

I beg to acknowledge the receipt of your note of yesterday's date, and, in reply, have been directed by the Superintendent of the Survey to say that he will very cheerfully detail a competent officer to make the survey referred to, if the Boundary Commission will pay the general expenses. The Coast Survey has, at the present time, no funds which can be diverted to that purpose.

We have already made a survey in detail and on a large scale, of Smith's Island and Watkins Point, and a copy of the original Plane Table sheets and other data, which will be given to the assistant,

will, no doubt, greatly facilitate the running of the proposed lines.

If this plan can be carried out please inform the Supt., Carlisle P. Patterson Esq., at the earliest moment, in order that the necessary preparation may be completed by the 13th. The Survey will supply one of its best Topographical officers and all the instruments required for the work: and he can meet the Commission at any point designated.

I am,

Very respectfully
(sd) R. D. Cutts

A true copy
W. B. Chilton

(copy)

Attorney General's Office
Richmond, June 3^d, 1876

Carlisle P. Patterson Esq.

Dear Sir,

I am instructed by Mr. Richard D. Cutts to correspond with you on the subject of this letter. It has been found necessary in the progress of the boundary arbitration between the states of Maryland and Virginia now pending to have a survey of Smith's Island in Tangier Sound, and it has been agreed between the counsel for the parties, that it shall be commenced on the 13th instant, and made by a detail from the Coast Survey Department, if to be had. I enquired of Mr. Cutts if this could be done, and he writes me under date of 2^d instant, that it can, if the boundary commission will pay the general expenses. The expenses will be paid by the

States, each having made an appropriation for the purpose. We purpose to meet at Crisfield on the Eastern Shore of Maryland on the 13th; which is near the field of operations, and I shall be pleased if you will inform me if an officer appointed to make the survey can meet us there, at that time.

Very respectfully
(sd) R. J. Daniel

A true copy
W. B. Chilton's (copy)

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, June 6th, 1876.

Dear Sir,

Your letter of June 3^d is duly received.

In accordance with your request an officer of the Coast Survey will meet you at Brisfield on the 13th instant prepared to execute such surveys of Smith's island as the Commission may wish.

I beg to state that in this last month of the fiscal year, the Coast Survey has no funds whatever to advance for this work, and that the officer sent will expect to obtain funds from you at Brisfield for the expenses of the survey. The time and cost will, of course, depend upon the amount and character of the work to be executed.

Hon. R. J. Daniel
Richmond, Va.

Yours respectfully
(sd) C. P. Patterson
Supt. U. S. Coast Survey

(Copy)
A true copy
W. D. Johnston

Instructions

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, June 10th, 1876.

Sir:

The State Commissioners of Virginia and Maryland appointed to determine and settle the location of the Boundary Line between the two States to the eastward of Chesapeake Bay, and across Tangier Sound and Smith's Island have requested the services of a Coast Survey officer to run certain lines for the purpose of deciding upon a special line as the Boundary.

In accordance with this request you are intrusted with the execution of that important work and will therefore proceed with the requisite instruments etc., to Crisfield, Md., to meet and report to the Commissioners on the 13th instant.

You will carry into effect the expressed wishes of the Commissioners, especially in running the desired

lines and in the execution of such local topography as they may designate.

To meet the expenses of this work including your traveling expenses and your subsistence at the rate of \$400 per day the Commissioners will provide you with funds, for which you may account to them directly or through this office, as they may prefer, but the Coast Survey has no funds whatever to advance for the work.

In regard to the merits of any of the documents involved in the case which the Boundary Commissioners will have under discussion, you will be careful to express no opinion whatever, either voluntarily or if appeal is made to you by the Commissioners or others, individually or jointly.

Yours respectfully

(sd) C. P. Patterson

Supt. U. S. Coast Survey

Charles Junken
U. S. Coast Survey
Washington D. C.

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, June 10, 1876.

A true copy
W. B. Chilton

Gentlemen:

In accordance with the request transmitted through the Honorable R. T. Daniel, I have directed Mr. Charles Junken of the Coast Survey to report to you at Crisfield, Md., on the 13th instant, for such topographical work and the tracing and marking of such lines as the commissioners may wish. Mr. Junken is informed that the commissioners will provide funds to meet the expenses of this work.

Very respectfully
Yours

(sd) C. P. Patterson
Supt. U. S. Coast Survey

Boundary Commissioners
of Virginia and Maryland

(copy)

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, July 6th, 1876.

Dear Sir,

For the work requested by the Boundary Commissioners of Maryland and Virginia you are authorized to use any of the original sheets of the Coast Survey showing the vicinity of Smith's Island, and to begin immediately upon the maps desired by the Attorney General and Counsel for Virginia.

Yours respectfully

(sd) C. P. Patterson

Supt. U. S. Coast Survey

Chas. Jenken

U. S. Coast Survey

Washington

D. C.

A true copy
W. B. Chittow

W. B.

(copy)

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, Jan. 10th, 1877.

A true copy
W. B. Chilton

Sir:

I have the honor to transmit herewith, in accordance with your request of the 9th instant, two copies backed with muslin, of an engraved chart issued from this office as "Coast Chart No. 33", the same being sheet No. 3 of the Coast Survey chart of Chesapeake Bay on a scale of 80,000 showing the vicinity of the disputed Boundary Line between Maryland and Virginia.

The two sheets as herewith sent, show no part of the disputed boundary, and are so sent for the purpose specified in the call for them from the Board of Arbitrators - namely: "to be marked and used by us [the Arbitrators] in fixing the true line of boundary between the said states, agreeable to instructions heretofore given verbally."

Four additional copies of the same

chart N^o. 33 will be transmitted
by the close of this week for the use
of the Arbitrators.

Very respectfully
yours

(sd) C. P. Patterson
Supt. U. S. Coast Survey

Hon. J. S. Black
Chairman
Board of Arbitrators
on Boundary Line
between Md. & Va.
Washington D. C.

(copy)

U. S. COAST ~~AND GEODETIC~~ SURVEY OFFICE,

Washington, Feb. 12th, 1877.

Sir:

In acknowledging the receipt of your letter of January 16th, I would express my special thanks for the courtesy which prompted you to transmit for the files of this office a true copy of the duplicate maps upon which you had traced under the direction of the Arbitrators the several disputed boundary lines between the states of Maryland and Virginia, and upon which is indicated the line determined by the same Arbitrators in this present year 1877.

Yours respectfully
(sd) C. P. Patterson
Supt. U. S. Coast Survey

Col. W. J. Twining
U. S. Engineers
Washington D. C.

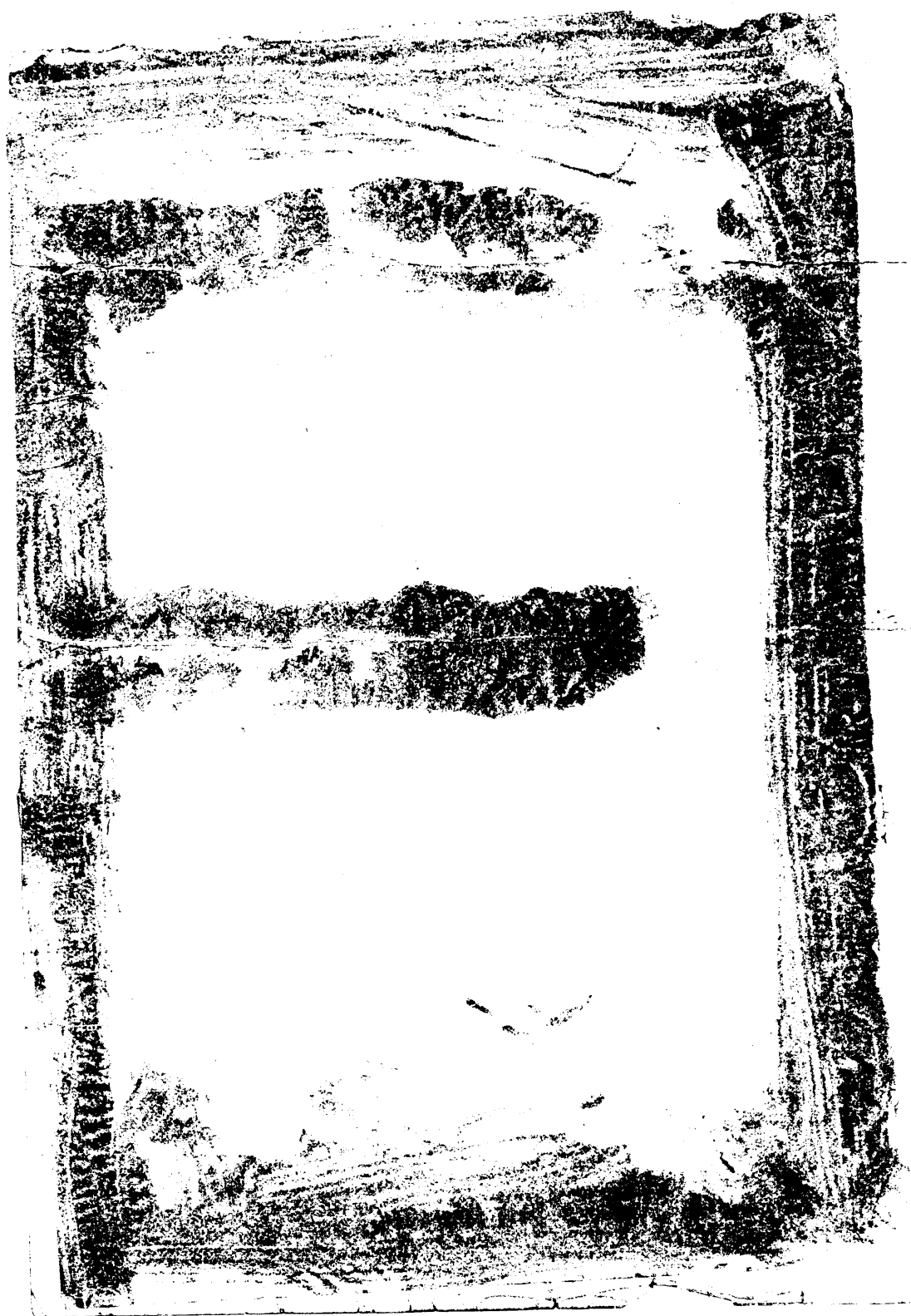
A true copy
W. D. Sullivan

Position	Lat.	Long.	Direction	Distance
Smiths Point	37° 53' 08"	76° 13' 46"		
Sassafras Hammock	37 57 13	76 02 52	N 65° 30' E	9 1/2 nautical miles
Horse Hammock	37 57 08	75 59 20	S 88 30 E	5620 yds
A	37 56 42	75 56 23	S 79 30 E	4880 yds
B	37 54 21	75 56 55	S 10 30 W	4740 "
Watkins Point	37 54 38	75 52 44	N 85 15 E	6720
C	37 54 38	75 47 50	due E	7880
D	37 56 25	75 45 26	N 47 30 E	5220

Point of Intersection of
 Scarborough & Calvert line
 with line up Pocomoke River } 37 59 37 75 37 04

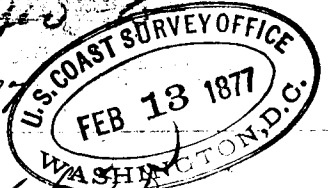
The bearings are true
 B. A. Colonna

Asst. in Charge C. & G. S. Office
 Sep. 30th 1886



*Maryland and Virginia
Boundary Line*

Have made an exact copy of this which will be kept in the Drawing Division. This letter & memo to be returned to Mr. Bright for file in Drawing Division. N.Y. 13. Feb 13 1877



Washington D.C. Jan 16 - 1877

To the Superintendent of the U.S. Coast Survey Sir

W. J. Twining

I have the honor to forward herewith one (1) copy of Coast-Chart-No 83 upon which I have laid down the boundary line of Virginia and Maryland, as "ascertained and determined by arbitrators 1877"

I also enclose a tabular statement of the latitudes, longitudes, directions and distances of the several points of the line adopted by the arbitrators

I am

Very respectfully

Your obedient servant

W. J. Twining
Captain Eng^{us}

Maryland, &c:

At a Session of the General Assembly of Maryland, begun and held at the City of Annapolis, on the Seventh day of January, 1844, His Excellency, James Black Crook, being Governor, among others, the following Law, was enacted to wit:

Chapter 247.

An Act to designate the arbitrators to ascertain and fix the boundary between the States of Virginia and Maryland

Whereas, a controversy exists as to the true line of the boundary between the States of Virginia and Maryland;

and,

Whereas, the State of Virginia, by an Act of its General Assembly, entitled an Act to designate the arbitrators to ascertain and fix the boundary between the States of Maryland and Virginia, approved on the twenty-eighth day of March, in the year of our Lord, one thousand eight hundred and seventy-four, has declared its willingness to submit the said controversy to arbitration, and to accept as final and conclusive, such award as may be made in the premises; therefore —

Section 1. Be it enacted by the General Assembly of Maryland, That the settlement and determination of the true line of boundary between the States of Virginia and Maryland be referred to the Honorable Jeremiah S. Black, of Pennsylvania, and the Honorable William A. Graham, of North Carolina, and a third person to be selected by them, who are hereby requested to act as arbitrators, and to ascertain and determine the true

line of boundary between the said states of Virginia and Maryland, and deliver their award in writing, any two of them concurring therein. Each state shall have the right to be represented by Counsel before said arbitrators, subject to such regulations as they may prescribe; and the state of Maryland hereby pledges its faith to accept and abide by the award of said arbitrators in the premises as final and conclusive, provided, however, that neither of the states, nor the citizens thereof, shall, by the decision of the said arbitrators, be deprived of any of the rights and privileges enumerated and set forth in the compact between them entered into in the year seventeen hundred and eighty-five, but that the same shall remain to and be enjoyed by the said states and the citizens thereof forever.

Section 2. And be it enacted, That until the final adjustment and settlement of the said line of boundary, the temporary line across the Chesapeake Bay, known as the Lovett-Davidson line, shall be faithfully observed by the citizens of the said two states; and the Governor is hereby requested to forward a copy of this act to the Governor of Virginia.

Section 3. And be it enacted, That this act shall be in force from its passage.

Approved, April 11th 1874.

The great seal

James Black Goorne,
Governor.

John Lee Carroll
President of the Senate.

Jesse K. Ames
Speaker of the House of Delegates.

State of Maryland, Set:

I, Spencer C. Jones, Clerk of the Court of Appeals of Maryland, do hereby certify, that the foregoing is a full and true copy of the Act of the General Assembly of Maryland of which it purports to be a copy, as taken from the Original Law belonging to and deposited in the office of the Clerk of the Court of Appeals aforesaid.

In testimony whereof, I have hereunto set my hand as Clerk, and affixed the seal of the said Court of Appeals this 3rd day of November, A. D. 1886
Spencer C. Jones Clerk
Court of Appeals of Maryland.

MARYLAND COURT OF APPEALS SEAL CAN NOT BE SCANNED



State of Maryland, Set:

I, Richard H. Alben, Chief Judge of the Court of Appeals of Maryland, do hereby certify, that Spencer C. Jones is Clerk of the Court of Appeals of Maryland, and that the foregoing attestation by him is in due form, and by the proper officer.

Given under my hand this 3rd day of November eighteen hundred and eighty-six
R. H. Alben Chief Judge
of the Court of Appeals of Maryland.

State of Maryland, Set:

I, Spencer C. Jones, Clerk of the Court of Appeals of Maryland, do hereby certify, that the Honorable Richard H. Alben, who has signed the foregoing certificate, is, and at the time of so doing was, Chief Judge of the Court of Appeals of Maryland; and that full faith and credit are due to his acts as such

In testimony whereof, I have hereunto set my hand as Clerk, and affixed the seal of the said Court of Appeals this 3rd day of November, A. D. 1886
Spencer C. Jones Clerk
Court of Appeals of Maryland.

State of Maryland,

EXECUTIVE DEPARTMENT.

I, Henry Lloyd, Governor of the State of Maryland, do hereby certify that Spencer C. Jones is Clerk of the Court of Appeals of Maryland, and, as such, Keeper of the Acts and Resolutions of the General Assembly of the State, and that full faith and credit are due and ought to be given to his acts as such.

In testimony whereof, I have hereto set my hand and affixed the Great Seal of the State of Maryland, on this third day of November in the year of our Lord one thousand eight hundred and eighty six

Henry Lloyd

By the

E. W. Whomps

SEAL CAN NOT BE SCANNED

Secretary of State.



Southern Boundary
of Maryland.

This Pamphlet is to be filed
in the tube with the original
Sheet showing the Bary Line
across the

Hyd. Sheet No. 1319.

B. H. Colonna
Asst. Chgo. Office

ILLEGIBLE ON ORIGINAL DOCUMENT
COVERED BY TAPE

SOUTHERN BOUNDARY
OF MARYLAND.

SOUTHERN BOUNDARY OF MARYLAND.

TO HIS EXCELLENCY,

GOVERNOR HICKS,

SIR:

Agreeably to your desire that I should prepare a Map of our Southern Boundary, to exhibit for general information, the position of the lines between Smith's Point and the Atlantic, as defined in the Act No. 385 of the last General Assembly, I have the honor to submit the annexed Map^{*} to which I have taken the liberty to add the following remarks in explanation:

The original grant of the Province of Maryland to Lord Baltimore, included "all that part of the Peninsula or *Chersonese*, lying in 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 *Wighco*, 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,

*This map was mounted on cloth and filed this day as hydrographic Sheet No. 1319a

October 15, 1932 *A. M. Solieralski*
actg. Chief, Division of Charts

which lieth under the fortieth degree of North Latitude from the equinoctial, where *New England* is terminated; and all the tract of that 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 *Pattowmack*; thence verging towards the South, unto the farther 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 said River, when 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*, may entirely remain for ever excepted to us," etc., so that the southern boundary of the grant was composed of two straight lines, the first course and the closing line of the above description; a line from *Watkin's Point East* to the Sea, and a line from the southern point of the mouth of the Potomac to *Watkin's Point*. The location of these lines depended simply upon the position of these two points.

The present boundary, however, between Maryland and Virginia, on the Eastern Shore, does not conform to this, but follows *Pocomoke Bay* from *Watkin's Point* to a short distance up *Pocomoke river* and runs thence to the Sea by a line inclined to the north of east.

Until recently all existing Maps of Maryland and Virginia erroneously placed the north shore of Pocomoke Bay so much too far to the north as, in some degree, to conceal this want of conformity with the provisions of the Charter; as upon these Maps, the present boundary between Worcester, Maryland, and Accomac, Virginia, if produced westwardly from Pocomoke River to Chesapeake Bay, would pass for almost the whole distance, over the northern portion of Pocomoke Bay. But as the correct topography of this region came to be better developed, these errors became more and more apparent, and gave rise to much uncertainty as to the true location of the line. The time and manner of its early settlement appeared to have been almost forgotten, and the old question of the locality of Watkin's Point was revived; for this point being of no use in the navigation of the Chesapeake, is not known to Pilots, and has only retained its name and importance from its connection with the bounds of the State, and of Somerset County.

To remove these uncertainties, the Legislature, in 1852, requested the Governor to open a correspondence with the Governor of Virginia, inviting him to appoint a Commissioner, who, with one to be appointed from this State, should retrace that portion of the boundary between the two States lying "between Smith's Point and the Atlantic," and mark it by the erection of suitable monuments. A similar Act was passed at the same session, with reference to our Western Boundary.

This request was not responded to by Virginia until 1858, when an Act passed her Legislature corresponding very nearly with these two Acts of Maryland. The Governor of Virginia, in compliance therewith, appointed Angus W. McDonald, Esq., and the Governor of Maryland, the undersigned, Commissioners to carry the provisions of these Acts into effect.

Unfortunately, both the Maryland Acts and that of Virginia, the provisions of which appear to have been copied from them, were too indefinite. The duty required of the Commissioners, with respect to this Southern line, was to retrace and mark the boundary "between Smith's Point, at the mouth of the Potomac, and the Atlantic." The intermediate point was not defined, and their progress was at once embarrassed by the question of the locality of Watkin's Point. It was obvious that further legislation would be necessary before the line could be established. They therefore concluded to obtain, in addition to the evidence already at hand, the best local information by an actual survey of the vicinity of the boundary; to lay the whole before their respective Legislatures for their action thereon, and to proceed to trace and mark the Western Boundary, the initial point of which was now well defined.

The Commissioners obtained by application to the Secretary of War at Washington, the services of Lieut. N. Michler, U. S. Corps of Topographical Engineers, to aid them in the discharge of these duties; and they subsequently instructed him, as a preliminary step to

make a minute survey of the vicinity of the whole boundary, preparatory to the final location and marking of such lines as might be agreed upon. The annexed Map is a compilation upon a reduced scale from the Maps, seventeen in number for each State, prepared in conformity with these instructions, at the joint expense of the two States.

These Maps, together with a joint report from the Commissioners and a report from Lieut. Michler, were submitted to the Legislatures of the two States at their last Sessions; as were also estimates for such appropriations as were deemed necessary to complete the surveys commenced but not finished, on our Western Boundary, and for "the erection of permanent and prominent monuments to mark such Boundary Lines as said States may concur in establishing."

In the House of Delegates of Maryland the subject of both the Southern and Western Boundaries, was referred to a special Committee, consisting of Messrs. Long and Dennis, of Somerset; Messrs. Gordon and Barnard, of Alleghany; and Mr. Jacobs, of Worcester, who, to carry out this recommendation of the Commissioners, reported a Bill, which passed both Houses, to define and establish the Southern and Western Boundaries of the State, and making appropriation "for completing the survey and record of the same."

The only action had upon these reports in the Legislature of Virginia, was the passage of a resolution authorizing the payment of her proportion of the expense of erecting suitable monuments along the

present divisional line between Worcester County, Maryland, and Accomac County, Virginia, and along the prolongation of this line westwardly, over Somerset County to the Bay. The Commissioner for Virginia was also despatched to England to seek for documentary evidence bearing upon the location of this and other boundaries of his State.

The declaratory Act of the last Session of our Legislature was passed, as a matter of course, as the next step in the proceeding of retracing and marking these Lines. But this resolution of the Legislature of Virginia, by assuming that the North shore of Pocomoke Bay is within her limits, calls into question the early settlement of this boundary by the two colonies, and puts an end to the further progress of the present Commission. Thus, in spite of our earnest efforts, the execution of our Act of 1852, must still be left to future negotiation between the States.

A Line established in strict accordance with the grant to Lord Baltimore, would throw a larger area from the Northern part of Accomac into Maryland, than it would from the Southern part of Somerset into Virginia, and our State would be much the greater gainer of the two; but the residents in the vicinity of the Line, who are, after all, the only ones really interested, desire no change, and none was contemplated in the appointment of the present Commissioners; whose duty was not the discussion of questions of boundary, but simply the renewing of such landmarks as were either lost or destroyed upon a

long established Line. It is to be hoped, therefore, that after a more careful examination of the subject, Virginia will be disposed to reconsider this resolution; the execution of which is uncalled for, and even if it were lawful and just, would force a change of limits where none was contemplated or desired on either side.

The early adjustment of this boundary by the two Colonies, its actual position, the apparent inconsistencies in its location, and the reasons for the definitions contained in our Act of 1860, may be thus briefly explained.

It is alleged and proved in the Bill in Chancery filed, in 1735, by the Penns in their controversy with Lord Baltimore, that the description of the bounds of the Province in the Charter, was framed by the aid of Captain John Smith's History and Map of Virginia. The Map was the only one extant in 1632, at the time of granting the letters patent, that contained all the names of the several places therein mentioned. But in these, the two named *Wighco* and *Wighcocomico* are confounded, giving rise at the outset to uncertainty in the locality of the River Wighco, which, in its turn, threw the position of Watkin's Point into doubt; and among the various sources of territorial controversy in which Maryland has been involved, the first, after the claim of Virginia to the Province of Maryland had been put to rest, was the locality of Watkin's Point upon which depended the true location of the Boundary upon the Eastern Shore of the two Colo-

nies. It was at last conceded that what Smith designated as the *Wighco* on his map, was the Pocomoke, and that the real River Wighco or Wighcocomico, the two being identical, lay further North, and emptied into the Chesapeake above Watkin's Point.

These disputes began about the year 1661. At that early day, settlements had already been made at Manokin and Annamessex. The Proprietary's Governor commissioned certain persons to grant warrants, under favorable conditions, for land near the Line, which excited the jealousy of the Virginia Colonists, resulting in inroads into Maryland territory, and continual border troubles. These were not ended until, at the instance of the Governor of Maryland, Commissioners were appointed who, in 1668, determined the location of Watkin's Point, marked the Boundary on the Eastern Shore of the Bay, and adjusted every thing that concerned the rights of those patentees or settlers whose situation became changed.

The articles of agreement of these Commissioners, and other documents connected with this negotiation are, fortunately, still extant in the old Council Chamber Records now in the Maryland Historical Society's collection of State papers, in the volume marked 4, L. C. B., pages 63 and 64, from which the following is copied:

Articles of Agreement between Philip Calvert, Esqr. Chancellor of Maryland, deputed by the honble, the Governor of the said province, to treat and Conclude upon the Bounds of the said provs., and Col. Edmund Scarbrugh, his Majesty's Surveyor General, of Virginia, Authorised and Commanded to lay out the Bounds of Virginia.

Whereas, his Royal Majesty's Commifision to the Surveyor Genl. of

Virginia, Commands, setting out the Bounds of Virginia, with a Reference to his Majesty's honble Governor & Council of Virginia, from time to time to give advice and Order for directing the said Surveyor General to do his duty appertaining to his Office; in order thereunto, his Majesty's honble Governor and Council have by Letter moved the honble the Lord Baltimore's Lieut. General of Maryland, to appoint some fitting person to meet upon the place called Watkin's Point with the Surveyor General of Virginia, and thence to run the divisionall Line to the Ocean Sea, &ca.; the honble Philip Calvert, Esq. Chancellor of Maryland, being fully impowred by the honble Lieutenant General of Maryland, and Edmund Scarbrugh, his Majesty's Surveyor General of Virginia, after a full and perfect view taken of the point of Land made by the North side of Pocomoke Bay and South side of Annamessexs Bay, have and do conclude the same to be Watkin's point, from which said point so called, we have run an East Line agreeable with the extreamest part of the Westermost Angle of the said Watkin's point, over Pocomoke River to the Land near Robert Holston's, and there have marked Certain Trees, which are so Continued by an East Line Running over Swansecutes Creeke into the Marsh of the Sea Side with apparent Marks and Boundaries, which by our mutual agreement, according to the qualifications aforesaid are to be Received as the Bounds of Virginia and Maryland on the Eastern Shore of Chesopeak Bay, in Confirmation of which Concurrence, [we] have set to our hands and seals this 25th day of June, 1668.

Signed,

PHILIP CALVERT, Seal.

EDMUND SCARBRUGH, Seal.

Thus, notwithstanding their precise definition, the bounds here established by authority of the Crown and consent of the Lord Proprietor of the Province, and to which Maryland has held for nearly two Centuries, are not in accordance with the provisions of her charter. It appears from this document that these Commissioners marked no trees West of the Pocomo-

moke. The Boundary they established by "marking certain trees" began "over Pocomoke River," on the "land near Robert Holston's," and was continued by marked trees, on what they deemed an *east line* to the sea side.

So it stands at this day. Lieut. Michler, in the course of his surveys, found and identified many marked trees on the East of the Pocomoke, but none between that River and the Bay.

We have no means of ascertaining, perhaps owing to the loss of some of the Council Chamber Records embracing several years between 1666 and 1692, why it was that in this agreement the provisions of the Charter of Maryland were not strictly followed, and why the Surveyor General of Virginia, acting in obedience to a Royal Commission commanding the "setting out" the bounds of his Province, established the divisional Line as we now find it; but we have clear evidence that the Act was well understood, and was accepted by the authorities of the two Provinces, from subsequent allusions to it in our Council Chamber Records, from the fact that it quelled all disturbances at the time; and from the Records of our Land Office, in which are found patents for land lying on the North Shore of Pocomoke Bay, (south of the prolongation, westwardly of the present Line between Worcester and Accomac,) granted by the Lord Proprietor in 1669, 1672, 1676 and 1680, when these Boundary disputes and their final settlement were fresh in the minds of all. In instructions to his son Charles, dated

London, 21 March, 1670, Lord Baltimore directs that he "should forthwith make good all articles made by our dear brother, Philip Calvert, Esq. on his Lordship's behalf, and Colonel Edmund Scarbrugh, upon laying out the bounds between his Lordship's said Province, and the Province of Virginia, in relation to the grant of any land, etc.," alluding to other articles of agreement, also made June 25, 1668, between those Commissioners, to the effect that each Province should make good any grant previously made, whose situation became changed by the Boundary they established. It would be strange if, with such positive instructions to confirm these agreements, Lord Baltimore's Governor should, at almost that very time, issue patents for land actually in Virginia. But these patents have never been called into question; and some of the lands are still in the possession of the descendants of the original grantees.

As to the *direction* of the Line East of the Pocomoke, we are enabled to account for its inclination to the North of East, from recent investigations into the secular changes in the magnetic declination on the Atlantic Coast, made under the direction of the Superintendent of the U. S. Coast Survey, and to perceive why it is that the trees marked by these Commissioners did not follow a due East course. The general direction of the marked trees identified by Lieut. Michler is $5^{\circ} 15'$ to the North of East. The probable variation of the needle in the year 1668, from these

investigations, is $4^{\circ} 54'$ West. A coincidence sufficiently close, considering the imperfections of surveying instruments at that day, and the means at their command for the accurate determination of the true meridian, to place it beyond doubt that they must have run this Line by Compass, without an allowance for the variation as it then existed. That they intended it to have been an *East Line*, is expressly stated in their agreement.

Thus it is that we find the divisional Line on the Eastern Shore, extending only partly across the Peninsula, and having a northerly inclination.

These Commissioners were only "deputed" to "treat and conclude" upon the bounds of the two Provinces on the eastern side of the Bay. There is no evidence that the *Line across the Bay* was ever established by the concurrent action of the two Colonies. The place called *Cinquack*, in the Charter of Maryland, corresponds to what is now Smith's Point, at the mouth of the Potomac, and is expressly acknowledged to be such in the compact of 1785, between Maryland and Virginia. Thus, in the tenth Article, * * * "all piracies, crimes or offences on that part of Chesapeake Bay which lies within the limits of Virginia, or that part of the said Bay where the Line of division from the South point of Patowmack River (now called Smith's Point) to Watkin's Point, near the mouth of Pocomoke River, may be doubtful." * * * *

This doubt as to the Line of division across the

Bay, was made apparent in a trial in Somerset County Court in 1848, in which was disclosed much difference of opinion as to its position. An endeavor was made to shew that the Line crossed Smith's Islands, by producing a patent for a tract of land upon those Islands called *Pitchcroft*, which called, as its southern boundary, for the Line between Maryland and Virginia, *running West* from the "Sound" to the Bay. No Line running West over any part of Smith's Island, (even with the variation of the needle as it was in 1679,) will reach Smith's Point at the mouth of the Potomac, and the call of this patent is impossible. The imperfect knowledge at that day, of the actual bearing of such distant points, must have made the *course* adopted by this Surveyor almost conjectural. The patent simply proves his impression as to the locality of the Line. It mattered little then or since, as all south of his Line is marsh and uninhabitable. It is fair to presume that tradition would have supplied the evidence, if none other could be found on this trial, had this Line ever been actually established.

Smith's Point is described in a grant of land from Sir Wm. Berkeley to Samuel Smith, dated 18 March, 1650. It is understood to comprise the area of the reservation from Virginia for the purpose of a Light House. The point within this area, from which the Line across the Bay is to be drawn, is of little consequence. In the accompanying Map it is assumed as the Light House itself, and the Line is drawn so as to

fulfil the conditions of its description in the Charter of Maryland, by being made the "shortest Line unto Watkin's Point," that is the shortest Line to "the point of land made by the North side of Pocomoke Bay, and the South side of Annamessex Bay."

So far, then, from there being a necessity or any good reason for the change which this resolution of the Legislature of Virginia proposes in the existing Boundary between the States, it appears on the contrary, that the Boundary on the Eastern Shore of the two Colonies was established in the year 1668, by Commissioners duly appointed for that purpose;

That the agreement between those Commissioners was accepted as final by the Crown and the Lord Proprietor of the Province;

That these Commissioners declared "Watkin's Point" to be that *whole body of land* lying between the North side of Pocomoke Bay and South side of Annamessex Bay, now Big Annamessex River;

That they marked and established the present divisional Line between Worcester County, Maryland, and Accomac County, Virginia;

That they declared this line to be the bounds of Virginia and Maryland upon the *Eastern Shore of Chesapeake Bay*;

That this Line was intended by them to have been an East Line, and is so called in their agreement, and that its inclination is so nearly the magnetic variation in that locality at that period, that they must have

traced this Line by Compass without due allowance for variation as it then existed ;

That the error they committed in the direction of this Line has deprived Maryland of some 23 square miles of the Northern part of Accomac County, Virginia, which should have been included within her limits ;

That they neither marked nor established a line of Boundary across any part of what is now Somerset County, Maryland ;

That they established the Boundary between the two Colonies, East of the Chesapeake, precisely as it now exists, and they designed that the Southern limits of Maryland should extend to Pocomoke Bay ;

That these Commissioners were "qualified" to fix the "bounds of Maryland and Virginia" upon a necessity for so doing, and fixed and established the *whole Boundary* across the "Peninsula or Chersonese," by a marked Line between the Pocomoke and the "marsh on the Sea side," run East by Compass, "agreeable with," not from but in the direction of, "the *extreamest part of the Westermost angle of Watkin's Point*;"

That although the true Boundary between the two States should be a parallel of Latitude from Watkin's Point, and such Line would add to the territory of Maryland, the Act of 1852 simply invited Virginia to join in "refixing and renewing" such "landmarks as were either lost or destroyed," and did not look to any change in the present limits of the State ;

That the Line across Chesapeake Bay was never located nor established by the concurrent action of the two States or Colonies, and that it is and should be, as defined in the Charter to Lord Baltimore, the *shortest* Line between Smith's Point and Watkin's Point.

With much respect,

THOMAS J. LEE.

ELLANGOWAN P. O. *Baltimore County, September 19, 1860.*

APPENDIX.

Extract from Lieut. Michler's Report to the Commissioners, Dec. 20th, 1859.

* * * Some of the marks consists of old blazed trees, such as Oak, Hickory, Gum, Cherry, Persimmon, Mulberry and Sycamore. * * * Other marks of the Line are to be found either in Country Roads or Lanes, or in divisional fences of neighboring farms, or in gates or sometimes in houses, known and admitted to be such by all persons irrespective of State, the localities being handed down from one generation to another. * * * Along the whole length of the Line from Chincoteaque to the Pocomoke River, a distance of between twelve and thirteen miles, there were existing of such marks at the time of the survey, thirty-three trees, one gate, the site of the ruins of an old house standing at the time the Scarbrugh Line was run, two State roads located on the Line, making in all an average of one mark for every half mile. At the end of each day, a rough field plat was made of the work done; and these marks, when laid down on the Maps, were found to be nearly in the same straight line; the general direction furnished the course. * * * Two only of these marks are at any distance from this straight line, and these not more than three hundred and fifty feet. * * * * * The azimuth or direction of this Line was $5^{\circ} 15'$ North of East. * * * * * The second sheet of the General Map exhibits the fact that the Line between Chincoteaque Bay and the Pocomoke River when prolonged across the latter River, and along and near the North Shore of Pocomoke Bay to Tangier Sound, represented on the second drawing by a broken red line, reaches the Sound at the westernmost point of James' Island, about five hundred feet South of the Coast Survey signal planted on this Island. No Boundary marks of any kind were found West of the Pocomoke River.

*List of some Patents granted for Land in Somerset County,
on the South side of the prolongation Westwardly of the
Line of 1668.*

From the Records of the Land Office at Annapolis.

1662. 150 acres to John Horsey, *Watkin's Point*.
 1669. 200 acres to John Kirk, *Kirk's purchase*.
 Running to Pocomoke Bay Shore.
 1672. 150 acres to John Hill, *Hill's Folly*.
 1676. 200 acres to Wm. Stevens, *Recovery*.
 1680. 100 acres to Wm. Stevens, *Bay Bush Hall*.
 1680. 200 acres to Wm. Stevens, *Dickinson's Folly*.
 1720. 200 acres to John Ganby, *Meadow*.
 On North Shore of Pocomoke Bay.

*Probable variation of the Needle near the Southern Boundary
of Maryland at different dates from 1668 to 1860, com-
puted by the formula kindly furnished by C. A. Schott, Esq.
Assist. C. S. through the courtesy of Professor Bache,
Supdt. U. S. Coast Survey.*

1668.	4° 54' West	1770.	1° 06' West
1680.	5° 06'	1780.	0° 42'
1690.	5° 06'	1790.	0° 24'
1700.	4° 54'	1800.	0° 18'
1710.	4° 36'	1810.	0° 18'
1720.	4° 06'	1820.	0° 30'
1730.	3° 30'	1830.	0° 48'
1740.	2° 54'	1840.	1° 18'
1750.	2° 18'	1850.	1° 54'
1760.	1° 42'	1860.	2° 30'

It will be perceived that the Westerly variation in this locality was on the increase until 1680, when it reached its maximum, and

remained stationary for about ten years; it then diminished, at first gradually, then more and more rapidly, until 1740-50, when the diminution continued to lessen, until the beginning of this Century, at which time a reverse movement, following the same law, began to take place.

Our County Surveyors, throughout the State, would do well to bear in mind that we have reached another period of inflection, and that for the future, (until the variation attains its maximum,) the annual increase of Westerly variation will gradually diminish.

The above figures are only approximate from the want of reliable data at the earlier dates. The subject of the secular changes in the magnetic declination upon the Atlantic Coast of the U. S., is thoroughly discussed in the Coast Survey Reports of 1855 and 1858.

CHAPTER 60.

An Act to provide for running and marking that portion of the Boundary Line between the States of Maryland and Virginia, extending from Smith's Point at the mouth of the Potomac River, to the Atlantic Ocean.

Whereas, it is of great importance that the territorial limits of the State of Maryland be clearly defined, her Boundaries permanently established and marked, and when these landmarks are either lost or destroyed, that they be refixed and renewed; and whereas the true location of that portion of the Line separating the State of Virginia from Maryland, intervening between Smith's Point at the mouth of the Potomac River and the Atlantic Ocean, has from lapse of time become uncertain, thereby involving innocent parties in difficulties by them irremediable: therefore

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That the Governor of this State be requested to open a correspondence with the Governor of Virginia, relating to retracing and marking the said Boundary Line dividing the State of Maryland from the State of Virginia, between Smith's Point and the Atlantic Ocean.

SECTION 2. *And be it enacted,* That if the concurrence of the State of Virginia can be obtained to the retracing and marking the said

portion of the Boundary Line dividing the two States, the Governor of this State be, and he is hereby authorized and empowered to appoint a Commissioner on the part of this State who, together with a Commissioner on the part of the State of Virginia, shall proceed to retrace the said portion of the Boundary Line between this State and the State of Virginia, and to mark the same by the erection of suitable monuments at proper points.

SECTION 3. *And be it enacted*, That the Legislature hereby reserves to itself the right to fix the compensation of said Commissioner.

Passed March 29, 1852.

CHAPTER 275.

An Act for running and marking the Western Boundary Line of this State.

Whereas it is of great importance that * * * * *

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That the Governor be and he is hereby requested to open a correspondence with the Governor of Virginia, in relation to tracing, establishing and marking the said Line; and in case the Legislature of Virginia shall pass an Act providing for the appointment of a Commissioner to act in conjunction with a Commissioner on the part of Maryland in the premises, then, and in such case, the Governor be and he is hereby authorized and required to appoint a Commissioner who, together with the Commissioner who shall be appointed on the part of Virginia, shall cause said Line to be accurately surveyed, traced and marked with suitable monuments, beginning therefor at the said Fairfax's Stone, and running thence due North to the Line of the State of Pennsylvania.

SECTION 2. *And be it enacted*, That it shall be the joint duty of the Commissioners, after running, locating, establishing and marking the said Line, to make a Report, setting forth all the facts touching the locating and marking the same; and it shall be the duty of the Commissioners of each respective State to forward copies of this joint Report to each of their respective Legislatures, and upon the ratification of such Report by the State of Virginia and the State of Mary-

land through their respective Legislatures, the said Boundary Line shall be fixed and established so to remain forever, unless changed by mutual consent of the said States.

Passed May 27, 1852.

An Act to ascertain and fix the Boundary Lines of the States of Virginia and Maryland.

Passed March 26, 1858.

Whereas, the General Assembly of Maryland has passed two Acts for running and marking the Boundary Line between that State and the State of Virginia, beginning therefor at Smith's Point at the mouth of the Potomac River, and running thence to the Atlantic Ocean, to form the Eastern Line, and beginning at the Fairfax Stone on the Potomac River, sometimes called the North Branch of the Potomac River, at or near its source, and running thence due North to the Line of the State of Pennsylvania, for forming the Western Boundary Line: and whereas, the Legislature of the State of Maryland has requested the appointment of a Commissioner on the part of this State, to act in concert with the Commissioner of Maryland, to run, ascertain and mark the said Lines: therefore

1. *Be it enacted by the General Assembly of Virginia*, That the Governor be and he is hereby authorized and required to appoint, as soon as may be, a Commissioner, who, together with the Commissioner who may be appointed on the part of Maryland, shall cause the said Lines to be accurately surveyed, traced and marked with suitable monuments, from Smith's Point at the mouth of the Potomac River, to the Atlantic Ocean, and from Fairfax Stone, situated as aforesaid, to the Pennsylvania Line as aforesaid.

2. It shall be the duty of the Commissioner on the part of the State of Virginia, after the running, locating, establishing and marking the said Lines, to make a joint Report with the Commissioner on the part of Maryland, setting forth all the facts touching the same, and to forward a copy of said joint Report to the Legislature of Virginia. And upon the ratification of such Report by the Legislatures of the States of Maryland and Virginia, the said Lines, thus run and ascertained, shall be fixed and established: to remain forever, unless changed by the mutual consent of the said States of Maryland and Virginia.

3. *Be it further enacted*, that an adequate compensation be allowed by law, upon an order of the executive, to said Commissioner; to be paid out of any funds in the treasury not otherwise appropriated.

4. This Act shall be in force from its passage.

CHAPTER 385.

An Act for the establishment of the South-eastern and North-western Boundary Lines between this State and the State of Virginia, and making further appropriations to complete the Survey and marking of the same.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That the Line established by the agreement of the Commissioners authorized in the year 1668, to fix the Bounds of Virginia and Maryland, is hereby declared to be the true Line of Boundary between the two States on the Eastern Shore of Chesapeake Bay; and that the true divisional Line across Chesapeake Bay is a straight Line from Smith's Point, at the mouth of the Potomac, to the Southernmost angle of the body of land defined by the aforesaid Commissioners as Watkin's Point.

SEC. 2. *And be it further enacted*, That the North-western Line of this State, is a Line commencing at Fairfax Stone at the head of the North Branch of the Potomac River, and running thence due North to the Southern Line of the State of Pennsylvania, as surveyed in the year 1859 by the Commissioners appointed by the States of Maryland and Virginia in conformity with the laws passed by the said States for that purpose.

SEC. 3. Appropriates for completing the Survey and record of these Lines.

SEC. 4. Directs this Act to take effect from the date of its passage.

Passed March, 1860.