

bad, and taking in of better lands, sometimes, it is believed, unfairly, so as essentially to change the original locations ; The exclusion of lands comprised in elder surveys ; the obtaining allowance for actual deficiency ; for water comprehended in the first surveys, or for ground subsequently washed away, &c. In regard to these allowances, it seems to have been an early principle that the proprietary guaranteed the quantity of land expressed in his grants, while, on the other hand, he laid claim to all excess, by the denomination of *surplus land*, concerning which many regulations in course of time took place. This surplusage, which was more common than deficiency, gave rise to innumerable warrants of resurvey, sometimes demanded by the patentees, when they found that the excess of their grants could not be concealed, and on other occasions, issued by direction of the government where information of surplusage was obtained. For a long course of years however the successive proprietaries were very tender on this article:—They called indeed upon their tenants by repeated proclamations to ascertain and pay for the surplus lands in their possession, limiting particular periods for that purpose, and threatening to dispossess those who did not comply, but still without putting those threats in execution, until, in the year 1735, it was determined to grant warrants to the first *discoverers*, enabling them to make resurveys *on the lands of other persons*, and to become purchasers of the surplusage found therein. This kind of warrant, which is not generally known to have existed; occasioned, as appears by some memorandums worthy of credit in my possession, “great confusion in the province” and was out of use before the approach of our revolution. It is noticed here as forming from its object a distinct species of resurvey warrant. Many others although differing little in form, were also distinguished in their design from the warrant of resurvey now in practice, which is always taken by or for the use of the person owning or having title to the land to be resurveyed, and for the declared purpose of taking in adjoining vacancy, and, if for several tracts, of connecting them in one survey ; comprehending also, by necessary consequence, the ascertainment of locations, quantities and bounds, and the exclusion of lands belonging to elder surveys, with the further object of obtaining allowance for deficiency, which the state of Maryland still continues to deem itself accountable for, while it exacts nothing for surplusage. Having given this general (c) account of the warrant of resurvey, which, from the various purposes to which it was

(c) The 3d, 4th, 5th, 6th, 9th, 10th, 13th, 17th and 18th articles of the preceding instructions to the land council relate in whole or in part to the subject of resurveys: the reader will find it useful to recur to them.