

land against any later taker up as if the certificate were good and intire. And if any man hold a tract of land which is exprest to be bound on another tract and to begin att a markt tree, standing in the line of that tract on which it is said to bound, but the first markt tree cannot be proved nor found, yet if any other markt tree of the tract be found and proved, that found and proved tree, shall rule the bounds of the tract, yet so as only the precise number of pearches shall be held: but if no tree be found the owner may resurvey and lay it out again, beginning in the line where it was at first said to begin: but it shall then be accounted latter then any other survey in them parts; and the taker up shall not intrude, nor hold part of any tract of land whereon a plantation is seated, and whereof there is certain proof of the bounds, because a certainty is to be preferred before an uncertainty. But what land he shall include by his survey clear of other tracts, he may hold forever by virtue of his first warrant, and the like shall be adjudged in all paralell cases where no tree is to be found, if the owners shall think it any advantage by saving his warrant, but then after such resurvey, he shall not pretend to his former survey any more forever. Yet if any such markt tree was said to begin in the point of a fork, att the mouth of a creek, or such other place which is as it were a naturall beginning, there if no tree is found, yett if the place is certainly known and proved, a jury shall find a point or prick to begin at most agreeable to the descripcion in the certificate of survey or grant of the same. No evidence admitted to prove a markt tree where the record expresses none.

And lastly, *Be it further enacted &c.* that if any controversy happen about the bounds of land, whereof there is no parrell within this act, the provincial court shall not give judgment therein, but it shall be putt to the assembly to be determined by an act, and to be made a president for the future.

MARYLAND, ss.

I hereby certify that the foregoing is truly taken from Liber L. L. No. 2, folio 207 to folio 227, one of the law record books of the late province, now state of Maryland, deposited and lodged in, and belonging to the office of the court of appeals for the Western Shore.

In testimony whercof, I hereunto subscribe my name and affix the seal of the said court of appeals, this fourteenth day of November, in the year of our Lord, one thousand eight hundred and six.

* * *
* L. S. *
* * *

TH. HARRIS, Jun. Clk. Ct. Apps. W. S.

Note—In Bacon's edition under the title of this law.

"This act fell under the general repeal of 1704, ch. 77, but by ch. 98 of that year was revived and continued till the end of the next session. It was in like manner revived by 1705 ch. 10, and 1706, ch. 1, and totally expired on the 15th April 1707."