

south line go to the westward of the first tree, then the east line aforesaid shall be further extended, that the south line may at least come to the beginning tree. In all cases where positive eye witness cannot be had, their traditionall evidence viva voce concurring with and agreeable to record, shall be accounted good proof, declaring from whom they had their tradition and not affirming any markt tree or bounds other then or differing from what is exprest on record, and where the first markt tree is wanting and the beginning cannot be reasonably proved, but yett a second or third markt tree is found, the tree so found shall rule the bounds of the whole tract according to the rules of this act mentioned or hereafter to be mentioned—Where a man holds a peninsula or neck of land, and have severall markt or lined trees upon the points or capes of this tract which do not very exactly agree in course or distance, and yet by good evidence prove his exterior bounds, and the whole neck, as it is comonly called, or peninsula be granted to him, there all things shall be favourably interpreted to his holding the whole neck against any later taker up, although he hath built and improved, because it is unreasonable a second taker up for a small skirt of land shall have the same advantage of range as the other; but yet if the second taker up be ejected, the first shall not have any action of trespass against him except the court which gives judgment upon the titles being the same court that judgment is given, and not after in due forme moved, allow such action to be brought upon the consideration of the reasonableness of the matter, and that is humbly prayed to be thus enacted, because such peninsula or necks of land do not fall under any ordinary rule of regulation, provided that nothing be allowed of, which is directly contrary to any other rule of regulation or clause of this act. And if any tract of land be described to begin at the uppermost or lowermost marked tree of another tract, when the record of the former tract mentions not any tree markt for the uppermost or lowermost bounds thereof, in all such cases the second tract shall begin where the uppermost or lowermost bounds of the first tract terminates by this act, except it can possitively and very strongly by good witness be proved that the surveyor and not the taker up, then and there att the taking up did marke a tree for the beginning of the second tract, and if the second tract be said to bound upon the first, yet it shall not be allowed to do so to the prejudice of any latter survey, but may come to its beginning by its prescribed line or lines paralell to the tract on which its said to bound, and the land betwixt may be taken up by a common warrant as in the tenth example, by which all cases paralell may be adjudged and determined. If a tract of land be described to lye on a certain side of a river, creek, branch,