

proof alleged to be material, competent and proper, in such suit, and really wanting from the trial of the merits between the parties; and the said courts respectively may also examine the party applying for a continuance on oath, or affirmation, as to any fact he shall allege that he expects to prove by the evidence or testimony declared to be wanting.

SEC. 4. *And be it enacted*, That in any action of trespass or ejectment, if plots returned in any cause are defective, or if plots are not returned from the neglect of the surveyor, or if he is prevented by sickness, or other accident, from returning the same, and the said courts shall think a continuance of such cause necessary for the trial of the merits between the parties, they may continue such cause for such time as they shall judge necessary, not exceeding three courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable; and if plots are not returned from the neglect of any surveyor, the court may order him to pay the costs of the term, and they may impose on him such fine as the circumstances of his neglect may require.

May continue causes, &c.

SEC. 5. *And be it enacted*, That in any case where a verdict shall be set aside and a new trial granted, and also in any case where commission shall issue for taking the depositions of witnesses residing or living out of this state, the said courts respectively shall have a discretionary power to continue such cause for so long a time as they shall judge necessary, not exceeding four courts after the usual time of continuance limited by law, and on such terms as they may think just and reasonable.

Where a verdict shall be set aside, &c.

By 1794, ch. 6, where commissions issue to parts without the United States, the cause may be continued, (for want of the return thereof,) as long as the court, under all circumstances, shall, in their discretion, think reasonable.

SEC. 6. *And be it enacted*, That in any case where a judgment shall be set aside for fraud, deceit, surprise or irregularity, in obtaining the same, the said courts respectively may direct the continuances to be entered from the court when such judgment was obtained, until the court such judgment shall be set aside, and may also continue such cause for so long a time as they shall judge necessary for the trial of the merits between the parties, not exceeding two courts after such cause hath been reinstated, unless evidence, or testimony or plots be wanting, as herein before provided, in which case the cause may still be continued, but under the limitations herein before made and provided.

Where judgment shall be set aside, &c.

SEC. 7. *And be it enacted*, That in all actions where, by the death of the plaintiff or defendant, new parties are made or to be made to such actions, the said courts respectively shall have a discretionary power to continue such actions as long as they

Where new parties are made, &c.