

and there in his presence, either plant other sufficient locust or cedar post, or stone or stones in the stead and place of that tree, under the penalty of six pounds sterling, to be paid to the party whose bounds the said tree was, to be recovered by action of debt, &c. And it is hereby made lawful for every man having such tree or trees within another man's land, and having a special warrant of resurvey, or order of Provincial Court for resurvey, or order of County Court for resurvey of their land, to ascertain his bounds, having asked leave, and being denied, with surveyor, jury, witnesses and chain carriers, go on such land, whereon or wherein his marked tree stands, and from such marked tree measure his course and distance required; provided he makes all fences as good and tight as they were found, and that he, nor any one along with him, in measuring the same, do not manifest damage, detriment or harm to the owner of the land whereon they go, or if accidentally any damage happen, that then in such cases he proffer, and within three days make reparation and amends.

*And be it enacted by the authority aforesaid,* That no man shall have ten *per cent.* given him to the precise number of perches, except it be by that addition of ten *per cent.* to reach to a marked tree or other natural bounds; but if he hath no marked tree or natural bounds, he shall not take ten *per cent.* to the damage of any latter survey, [but] begin off from the first survey, and run towards it, and [if] there be ten *per cent.* betwixt the end of the precise number of perches, the first taker up shall enjoy it; and in all such cases, if ten *per cent.* added to both, will make their land to bound on each other, no third person shall take up or hold any land betwixt them.

*And be it enacted, &c.* That if any man hold land by a river or creek side, yet so as there lies marsh betwixt the firm land and the river, such adjacent marsh shall not be taken up, or being already taken up by any other, shall not be held, but such adjacent marsh shall be deemed and adjudged absolutely to belong to the land to which it is adjacent, and be bounded by the same courses drawn from the firm land into such river or creek as the firm land is bounded by, except in Somerset county and upon Delaware, and the ocean.

*And be it enacted, &c.* That if any man hold land which is bounded, or expressed to be bounded, by a line drawn from a certain tree, or other individuatable point of intersections, a certain course to a certain marked tree in the woods, and the said tree or trees do not correspond to the said certain course or courses, but that the courses and trees differ very much, as it is too common, and that the courses prescribed give the quantity of land due to the taker up, in such cases, wherein it is not otherwise before in this act provided in ascertaining the bounds of lands by the water side, the lines shall be the bounds of such lands, and the trees shall be deserted, and one line shall be drawn from the end of another, because the errors of such surveys was in the misplacing of trees; yet so if any second taker up hath begun at any the aforesaid deserted trees, and run lines parallel to the first taken up lands, and that by this regulation some part of the land of the second taker up will now fall within the lines of the first taker up; in such case the first taker up shall have no action of trespass against the se-