

said surveyor, nor unless said paper shall appear on said list; and if either party shall make any surveys or locations which the court in its discretion shall think unnecessary, the party requiring the same shall pay the cost thereof; and any party to any cause hereafter tried may give in evidence any patent, deed, or other paper which would be evidence in the cause, if it shall be located in whole, or only such part thereof as may be necessary to prove or illustrate the matters in controversy, either by actual survey or by protraction as herein provided, if said patent, deed or other paper shall be upon the aforesaid list furnished to and returned by the surveyor; and in all actions to trespass *quare clausum fregit*, where the alleged trespass consists of excavations of coal, iron, ore or other mineral or material under ground and such excavations cannot be measured or located on the plats by reason of the same having become inaccessible by falls of earth or otherwise or by the closing or partial closing of the galleries, headings, rooms or other excavations constituting or leading to such trespasses, then and in all such cases it shall be lawful and proper to prove such trespasses by any evidence otherwise competent and admissible, notwithstanding such trespasses cannot be and have not been located on the plats and notwithstanding that the defendant has taken defense on warrant.

This section referred to in construing section 80—see notes thereto. *Kelso v. Stigar*, 75 Md. 395.

See notes to sec. 71.

1904, art. 75, sec. 84. 1888, art. 75, sec. 81. 1860, art. 75, sec. 57.  
1852, ch. 177, sec. 7. 1829, ch. 186.

84. The plats and certificates of survey in every case may be amended at bar; where the locations do not correspond with the variation the same may be amended at bar to correspond therewith; objects to which the proof applies may be placed on the plats and witnesses may be examined who were not sworn on the survey; provided, the court shall be satisfied the ends of justice will be attained by such amendment of plats and admission of witnesses.

The amendments of the plats must be made according to the law and practice of ejectment, so that something may be supplied which was unknown or overlooked at the time of the survey. No location may be made by amendment which could not have been permitted at the time of the survey. *Tome Institute v. Davis*, 87 Md. 608.

This section dispenses with the necessity of having a witness *sworn* on the survey in order to make him competent at the trial, but does not render a witness who was not on the survey competent at the trial, with regard to the location of any object upon the plat. Law prior to this section. *Morrison v. Hammond*, 27 Md. 619.

See notes to sec. 71.

*Ibid.* sec. 85. 1888, art. 75, sec. 82. 1860, art. 75, sec. 58.  
1852, ch. 177, sec. 8. 1882, ch. 372.

85. In no action shall plats be considered as pleadings or evidence *per se*.

This section referred to in deciding that in an action for flooding land, a witness might testify to the existence of other ditches besides those located