

cause the errors of such Surveys was in the misplacing of trees, yet so if any the taker up hath begun at any the aforesaid deserted trees and run lines parallel to the first taken up lands, & 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 Trespas against the second taker up for any supposed trespass within his lines which he could not have had before, but on the contrary, if the second taker up hath made any improvement on the land now to be taken away he shall hold his improvement and all the land that falls to be within the lines of the first taker up by reason of this regulation for such number of years as a Jury shall think such improvement deserves, not exceeding four years, to be reckoned from the time that the first taker up resurvey'd his land by a Jury, and the said Jury shall there *ore tenus* determine the matter,

And whereas this may occasion that some land may lie clear by or about the deserted trees or otherwise, in such cases the Jury, or the major part of them shall determine in writing under their Hands and Seals what part of such land happening to be clear shall be assigned to the first taker up to take up again by common Warrant, and what part shall be assigned to the second taker up to take up again in like manner, which by this Act they are impowered to do, to make good what disadvantage may happen to either part, and no other person for a year and a day after shall take up any the land so assigned, and if they do it shall be of no effect, nor shall any grant for the same upon any such surreptitious Survey be of validity in Law, and if the first taker do not within a year and a day after the publication of this Act in the County where such land lies resurvey his land and ascertain his bounds, that then after one year and a day expired the second taker up (may if he please) for certainty take cause the same to be done at his own cost and charges.

And Be it Enacted &c. that the Justices of each respective County Court may grant a Warrant of resurvey and a *venue* for a Jury if required when the reason of Resurvey is onely ascertaining of bounds, according to this Act, the petitioner paying only to the Clerk sixteen pounds of Tobacco for his Warrant, and thirty pounds of Tobacco or two shillings six pence to the Commissioners towards supporting their expences, and where the Warrant of resurvey is granted as aforesaid there the Surveyor shall have only such fees as in a primitive Survey; any Law Statute or Custom to the contrary notwithstanding. And shall certify that by vertue of such Warrant he hath resurveyed a tract of land called A at first laid out for B described to lie and be bounded as followeth, (here the situation and bounds of land to be explicit) and that he hath resurveyed and regulated the same according to the first second or other example of the Act for regulating and ascertaining &c. which certificate with a fair plat shall be returned to the Examiner of the County, and being approved by him to the County Clerk to be recorded, and to that end be it Enacted that the Governour for the time being may constitute & appoint one discreet person to be Examiner of the said County and to do therein as to such Office belongs &c. taking for his fees for every such certificate fifty pounds of Tobacco, if the same be for five hundred Acres or under and one hundred pounds of Tobacco if the same shall keep a fair Book, and Record the certificate and plat.

And Be it Enacted &c. that if any person hold a tract of land, which on any line is said to run a certain course and certain number of perches to another Mans land, & that certain number of perches and fifty per cent. added on the same course to that line do not come to the said land, yet the number of perches give the quantity of land which the taker up had due to him, he shall be contented with his precise number of perches, and shall not extend his line further to the damage of any latter Survey, altho' his Survey be said to be bounded by the other Mans land, but the land betwixt being surveyed by common Warrant shall be sure to him that surveyed it, provided that is not already taken up, he shall have a year and a day from the publication of this Act to take it up by common Warrant, except in such cases as falls under the regulation of the eleventh example.

And if any owner of land perceiving that he hath more breadth betwixt his trees which gives him more land then was due to him at first have already whilst he was owner of the first tract by common Warrant taken up the surplusage, he shall by vertue of such survey and his Lordships grant hold the same according to his grant, notwithstanding the said land seem to have been formerly survey'd, but there