said Court and the jury, in the truth of the premises that all that tract or parcel of plantable land called Browns Discovery lying and being in the County aforesaid with the appurtenances containing one hundred and twenty two acres of land be carefully resurveyed and laid out according to the ancient metes and bounds thereof, as in the original Certificate of survey thereof is expressed to the end that the said lands in Controversy and the claims and pretences of both parties, may more plainly and indifferently appear to the Court and Jury; therefore you the said surveyor in the presence of you the said sheriff are hereby commanded carefully to resurvey and lay out, as well the said lands in dispute as any other land adjacent thereto which shall be thought necessary by the said Plaintiff or defendant to be laid out for the better illustration of the matter, according to the claims and pretentions of the Plaintiff in the presence of the defendant if he being summoned think fit to be present, and without any interruption of him the said defendant or if absent, notice to be left at his place of residence or last place of abode; and likewise survey and Lay out the same lands in dispute as aforesaid, according to the claims and pretentions of the defendant, in the presence of the Plaintiff if he being summoned, think fit to be present without any interruptions of him the said Plaintiff, or if absent notice to be left at his place of residence, or last place of abode: And you the said sheriff are hereby empowered to examine upon oath any witness or witnesses that by either of the said parties shall be produced in relation to the same; and you the said sheriff are hereby ordered to give both the said parties thirty days notice before the day of the Execution of this writ, and you the said surveyor are hereby commanded to return five fair Certificates and plots therefor, drawing the presences of the Plaintiff in black lines, and the pretences of the defendant in pricked lines as well under the hand and seal of you the said sheriff as you the said surveyor to the said General Court to be held at the City of Annapolis on the second Tuesday of May next, that the said Court and Jury, being rightly informed of the truth of the premises may further proceed therein as to justice appertains and so forth. Witness the honourable Robert Goldsborough Esquire, Chief Judge of the said Court, the Eleventh day of October in the year of our Lord one thousand seven hundred and ninety six. Issued the seventh day of November 1796. Ant. Gwinn Clk.

And thereupon the same day is given to the parties aforesaid then and there &c.

At which said second Tuesday of May being the ninth day of the said



said month in the year of our Lord one thousand seven hundred and ninety seven and the day of the return of the last aforegoing warrant of resurvey comes again into the General Court here as well the said Thomas Sechright Lessee as aforesaid by his attorney aforesaid as the said Richard Batty by his attorneys aforesaid and the sheriff and surveyor of the County aforesaid to whom the said last aforegoing warrant of resurvey was in form aforesaid directed make no return thereof to the Court here. Whereupon the parties aforesaid by their attornies aforesaid pray leave of the Court here to complete the survey under the warrant aforesaid by the second Tuesday of October next and to there it is granted: And the said Richard Batty by his attornies aforesaid prays the Court here that Commission may issue to the State of North Carolina to Examine evidences in this Cause and that the depositions to be taken under and in virtue of the said Commission and therewith returned may be read in evidence at the trial of the issue aforesaid; And thereupon the said Richard Batty files in Court here an affidavit of the tenor following to wit.

Ann Davis and others Lessee
vs
Richard Batty

Ejectment

The Defendant Richard Batty being sworn on the holy Evangels of Almighty God deposeth and saith that Edward Waynman formerly of Ann Arundel County but now of the State of North Carolina is a material and competent Witness for the defendant in this cause without whose testimony he Cannot safely go to trial and that by him he expects to be able to prove a boundary of Selbys Marsh claimed by this defendant, under the title of which tract this Defendant claims and upon the true location of which this suit depends. Sworn before me this second 2d day of June 1797.

John Randall.

Which being by the Court here seen, and for that the suggestion of the said Richard Batty being sufficiently proved to the Court here according to the Act of Assembly in such case made and provided, the same is granted him. Whereon on motion of the said parties by their said attornies it is ordered by the Court here that the same Commission be directed to such persons as Commissioners which the parties aforesaid or their attornies aforesaid may nominate and fix upon returnable to the Court here with all convenient speed &c.

Thereupon further process of and upon the premises aforesaid between the parties aforesaid by order of the Court here thereon is

continued