

305-306); John ffawkes *v.* John Evans (*post*, pp. 306-307); John Wade *v.* John Slye (*post*, pp. 358-360); David Jones *v.* Anthony Demondadeer (*post*, pp. 424-425) and in Taylor *v.* Stanley (*post*, p. 114).

Sometimes the Court, before trying a case of ejectment to try title, ordered a survey with plot and certificate. On April 25, 1677, Thomas Jones of Somerset County leased to William Taylor a messuage with a thousand acres, called "Naseworthys Choice", lying on Manokin River. A few days later, May 1, 1677, William Layton, also of Somerset, entered into the property and ejected Taylor. Whereupon Taylor sued Layton for £10 sterling (*post*, 368-369). At the hearing on October 8, 1677, the Court proclaimed the usual rule: unless the tenant in possession or he under whom he claimed, appeared and made himself defendant, and, having confessed lease, entry and ejectment, insisted only on title, the defendant in the declaration, William Layton, would confess judgment, and the plaintiff Taylor would recover possession. In that case Jones who had leased to Taylor would have a good title. Two neighboring landowners, Andrew Whittington and Richard Chambers, were in this way, substituted for Layton. Francis Jenkins, deputy surveyor for Somerset, was ordered by the Court to lay out the land according to the old boundaries, and Sheriff Thomas Walker was ordered to summon a jury on the land, which should hear testimony and direct the surveyor in his work. On February 23, 1677/8, the surveyor returned that he had resurveyed and laid out the land on February 5, and that it contained five hundred and fifty-three acres more or less. He and the sheriff and the jury said that "Naseworthys Choice" did not touch or run foul of the lands of Chambers or of Whittington. Of the jury signing the report, three were marksmen (*post*, pp. 369-370). On the day the report was made to the Court, February 23, the plaintiff, William Taylor, by his attorney moved the Court that the order under which the resurvey had been made had been obtained by the defendant in the absence of the plaintiff, and that thus the plaintiff in a real action had been concluded unheard, which was contrary to law. Accordingly, Attorney Ridgely for Taylor moved that the order and the survey be set aside and a new survey be awarded. The Court heard both sides, and after consideration, adjudged that the order had indeed been surreptitiously obtained, and struck out all proceedings under it (*post*, 232-233, 71). Surveyor Jenkins was again ordered to make a survey, Sheriff Walker to summon a jury on the land. Again the surveyor and the sheriff and the jury did as they were ordered to do. This second time there were only four hundred and seventy acres. Four marksmen signed this report. At the hearing on June 15, 1678, Jones by his attorney refused to make any further prosecution, and a nonsuit was awarded against him. Whittington and Chambers, the two defendants, each received 836 pounds of tobacco against Thomas Jones for their costs, and Jones was in mercy for his false claim.

The suit of Edward Ball against Bernard Johnson was a case of ejectment to try a title which had been in dispute for six years or more. Thomas Letchworth, once member of the Assembly for Calvert County, and for several years one of the commissioners or justices for the County (*Archives* I, 460; *ibid.* II, 424, 521, 539), died some time in 1667. He left a widow Elizabeth, and a