

then describes the land as " bounding on the east by the land " lately possessed by Robert Short, and with the said bay, un- " to the said Fishing creek ;—on the south with the said creek " and with the land of Oliver Spry planter—on the west with " the creek called Scotcher's creek :"—We find then, that after the third boundary, by the great marsh at C, no course or distance is expressed, but the land is bounded by other tracts, by the bay, and by the two creeks.

It was not the object of the act of 1699 to empower the jury to resurvey land contrary to its bounds, artificial or natural ;—and the jury, in this case, have certified that they have laid out the said land according to its true ancient metes and bounds ; although, whatever their reason may have been, they begin at what appears from the courses of the patent to have been the third boundary, to wit, at C :—When they get to the third boundary, (which is the first in the patent, to wit, A,) they then describe the land as bounding on Scotcher's creek, the land of Oliver Spry, Fishing creek, and the bay, as by the patent directed, omitting only the call to bind on the land of Robert Short ; and after this general description, which refers to the patent, they go back to the boundary last named by them at the head of Scotcher's creek, A ;—and describe the courses and distances round to C, the beginning ; though they appear also to have mentioned, at the termination of the 39th line, a locust post, which is not called for by the patent, or to have made some mistake respecting it, which might perhaps have been explained if they had returned a plat with their certificate, as the act of 1699 directed:—But the result of their finding is, that in running round from Scotcher's creek to what they made the beginning,—to wit, from A to C, and binding on the lands, creeks, and bay, as called for by the patent, they run the several courses and distances which they have expressed, and the question then is whether those bounds are to be controuled by the course and distance, or the course and distance run by them to be disregarded.

The defendant has located the land from A with an allowance of $5\frac{1}{4}$ degrees for variation, and the effect of it is to make the lines distant from Scotcher's creek, from the land of Oliver Spry, or of any other person on the south,—from Fishing creek, and from the bay :—But it is a rule in the land office not to make any allowance either for or against a patentee on the variation of the compass alone ; although, on proof of the original running of some of the lines, the allowance for others might be fixed in cases where it might be necessary from the party being confined to course and distance,

It appears also that, in favour of a patentee, the chancellor may correct the present running (occasioned by varia-