

Some other day that terme or to the next terme all which is very uncertain and therefore a Discontinuance of the Verdict which is a Manifest Error

[125] 8^{thly} The Record Setts forth that John Rhodes by Sam^{ll} Wattkins his Attorney upon the 9th day of October 1695 Came before his Matys Justices of the Provinciaall Court and prayed that another Warrant of Resurvey might Issue returnable to the then Next Prov^{ll} Court for the resurveying and laying out of the Land Called Wattson according to the Ancient meets and Bounds as in the Pattent thereof is Expressed and it was Granted And att the next Prov^{ll} Court the Said Warrant together with the resurvey was returned and the Court thereupon Gave Judgment for the Said John Rhodes Whereas there was not any Suite or Action then Depending between the Said John Rhodes and the Said Robert Grundy but the Court hath given Judgm^t upon the returne of the resurvey onely for it Cannot possibly be Intended that Judgment was given upon the former Verdict att the Barr, Because the issue was tryed between William Harris Lessee of John Rhodes Pl^t and Robert Grundy Def^t according to the Decl^t So that the Court here in this Case hath discontinued the Verdict and Given Judgment for Rhodes upon the Warrant and the returne of the Surveyor onely which is an Apparent and a very Gross Error

9^{thly} The Court (had there been one) ought to have Continued the Verdict and have given a Day over to the Pl^t and Def^t att the next Court, and the Pl^t ought to have Sued out his Warr^t to resurvey the Lines which were found by the Jury att the Barr, ad Informationem Curie whether the Trespas was Comitted within th[e]se Lines or not, for upon this the whole Case Depended, And the Court Could not give Judgm^t upon the Verdict without being thus Informed, but instead of this John Rhodes who was not any party to the Suite prays a Warrant to resurvey the Whole Tract of Land Called Wattson and upon the returne thereof the Court gives Judgm^t for him w^{ch} is a Manifest Error.

10^{thly} Severall of the Jurors which were Impannelled and Sworne and which were att the Executing the Warr^t of Resurvey Grant[ed] to John Rhodes and which did direct the Surveyo^r to lay out th[e] Land were not Freeholders and therefore Error

11^{thly} The Judgm^t is that John Rhodes recover ag^t the S^d Rob^t [126] Grundy as well the Said Tract of Land Called Wattson and It is very uncertain by this Judgment how many Acres of Land Wattson Conteineth for by one Survey it Conteineth more, by another a less number of Acres nor doth it Appear by this Judgm^t what Courses or Bounds Comprehends the Land recovered by this Judgment but the Same is altogether uncerteine and therefore Erroneous.

12^{thly} The Judgment here is That Rhodes recover the Land no Such Judgm^t Could be given in this Case Supposing him to be the pl^t whereas in