pray likewise that the court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid by the aforesaid Daniel Fister above for errors assigned, and that the said Judgment be in all things affirmed and so forth. — But because the court here are not yet advised to give their Judgment of and upon the premises, day therefore is given to the parties aforesaid, before the court here until the second tuesday of may next, to hear their Judgment of and upon the premises, because the court now here thereof are not yet advised &c. — At which said second tuesday of may being the eighth day of the same month in the year of our Lord one thousand seven hundred and ninety eight, comes again into the General court here, as well the aforesaid Daniel Fister by his Attorney aforesaid, as the said Margaret Beall and Upton Beall administrators as aforesaid by their Attorney aforesaid; and the aforesaid Daniel Fister by his attorney aforesaid suggests to the court here, that in the record and proceedings in the county court of Frederick county there is a demurrer to the evidence, and it will thereby appear that the Jury were discharged without giving any verdict on the Issues joined in the cause, Whereas it appears by the record returned to this court that the Jury have found verdicts on the issues joined in the case, the aforesaid Daniel Fister therefore pray that a writ of diminution may issue commanding the clerk of Frederick county to return a true record in the cause aforesaid, and to him it is granted, which said writ of Diminution thereupon issued accordingly: But because the court here are not yet advised to give their Judgment of and upon the premises aforesaid day therefore is further given to the parties aforesaid before the court here until the second tuesday of October next, to hear their Judgment of and upon the premises, because the court now here thereof are not yet advised &c.

At which said second tuesday of October being the ninth day of the same month, in the year of our Lord one thousand seven hundred and ninety eight, comes again into the General court here as well the aforesaid Daniel Fister by his attorney aforesaid, as the said Margaret Beall and Upton Beall administrators as aforesaid by their attorney aforesaid, but the Justices and Clerk of Frederick county court to whom the said writ of diminution was directed have not made return thereof to the court here; and because the court here are not yet advised to give their Judgment of and upon the premises aforesaid day therefore

is further given to the parties aforesaid before the court here until the second tuesday of may next to hear their Judgment of and upon the premises, because the court now here thereof are not yet advised &c. — At which said second tuesday of may being the fourteenth day of the same month in the year of our Lord one thousand seven hundred and ninety nine, comes again into the General court here as well the aforesaid Daniel Fister by his Attorney aforesaid, as the said Margaret Beall and Upton Beall administrators as aforesaid by their attorney aforesaid. — But because the court here are not yet advised to give their Judgment of and upon the premises aforesaid, day therefore is further given to the parties aforesaid before the court here until the second tuesday of October next, to hear their Judgment of and upon the premises, because the court now here thereof are not yet advised &c. At which said second tuesday of October being the eighth day of the same month, in the year of our Lord one thousand seven hundred and ninety nine, comes again into the General court here as well the aforesaid Daniel Fister by his Attorney aforesaid, as the said Margaret Beall and Upton Beall administrators as aforesaid by their attorney aforesaid. — But because the court here are not yet advised to give their Judgment of and upon the premises aforesaid, day therefore is further given to the parties aforesaid before the court here until the second tuesday of may next, to hear their Judgment of and upon the premises, because the court now here thereof are not yet advised &c. — And now, at this day, to wit, the said second tuesday of may being the thirteenth day of the same month in the year of our Lord one thousand eight hundred, comes again into the General court here as well the aforesaid Daniel Fister by his Attorney aforesaid, as the said Margaret Beall and Upton Beall administrators as aforesaid by their attorney aforesaid: Whereupon all and singular the premises being seen and by the court here more fully understood, and mature deliberation being thereon had: because it seems to the court here, that there is manifest error in the record and proceedings aforesaid and also in the rendition of the Judgment aforesaid, It is considered by the court here, that the Judgment aforesaid, for those errors and others in the record and proceedings aforesaid, be reversed, annulled, and held entirely for void: And it is also considered by the court here, that the aforesaid Daniel Fister recover against the said Margaret Beall and Upton Beall administrators as aforesaid the quantity of fifteen hundred and thirty pounds of Tobacco unto the said Daniel Fister on his assent assessed for his costs and charges by him about his appeal in this behalf laid out and expended, and that he have thereof his Execution &c. —

Memorandum Judgment reversed by the court on the fourth