Pinkney his Attornies as the said John Hiesler, Gabriel Hesler and William Hiesler by their attornies aforesaid But because the Court here are not yet advised to give their Judgment of and upon the premises day therefore is further given to the parties aforesaid with the consent of the said parties by their attornies aforesaid before the Court here until the last Monday of May next to hear their Judgment of and upon the premises because the Court here thereof are not advised &c

At which said last Monday of May being the thirty first day of the said Month in the year of our Lord one thousand eight hundred and thirteen came again into the Court of Appeals here the parties aforesaid by their attornies aforesaid. Thereupon further proceedings of and upon the premises between the parties aforesaid is further continued in virtue of an act of Assembly in such case lately made and provided until the first Monday in December next the same day is given to the parties aforesaid there &c to hear the judgment of the Court here of and upon the premises &c

And now here at this day, to wit, the first Monday of December being the sixth day of the said Month in the year of our Lord one thousand eight hundred and thirteen came again into the Court of Appeals here as were the said Thomas Tootell Appellee as aforesaid by Luther Martin Samuel Hughes, Richard Brooke, William Pinkney and John Thomson Mason his attornies as the said John Hiesler, Gabriel Hiesler and William Hiesler by Philip Barton Key, Roger Brooke Taney, Moses Tabbard and Arthur Shaaff their attornies Whereupon as were the record and proceedings aforesaid and the judgment given in form aforesaid as the matters aforesaid by the said Thomas Tootell Appellee as aforesaid above for error assigned being read and fully understood by the Court here mature

deliberation had thereupon, for that it appears to the Court here that in the record of proceedings and also in the condition of the Judgment aforesaid, it is manifestly erred, as to the opinion of the County Court and their direction to the Jury as stated bill of Exceptions in the record of proceedings aforesaid in form aforesaid given by the said County Court for these errors and others in the record of proceedings aforesaid be reversed, annulled and held entirely for nought and that the said Thomas Tootell Appellee as aforesaid be restored to all things which by reason of the Judgment aforesaid he has lost

It is also considered by the Court here that the said Thomas Tootell Appellee as aforesaid recover against the said John Hiesler, Gabriel Hiesler and William Hiesler the sum of fifty seven dollars and sixty five cents for his costs and charges by him laid out and expended about his prosecution of the said appeal of and upon the premises and that the said Thomas Tootell Appellee as aforesaid have thereof Execution &c

And because it clearly appears to the Court here that justice and the merits of this cause require that there should be a new trial of the issue aforesaid Thereupon the Court here pursuant to the directions of the act of Assembly in such case made and provided orders and directs a transcript of the record and proceedings aforesaid to the Clerk of the County Court of Washington with the seal of the State of Maryland of Procedendo to the said County Court directing them to proceed in the action aforesaid and to a new trial thereof in the same manner as if no trial had taken place or any appeal had been prosecuted.

The record and proceedings aforesaid with the said writ of Procedendo are therefore remitted to the Clerk of the County Court of Washington accordingly &c

Memorandum, At the argument and decision of this