month in the year our Lord One thousand eight hundred and Nineteen come again into the Court of Appeals here as well the said John Denn Lessee as aforesaid by Ezekiel F. Chambers and Henry Tilghman Esquires his Attornies as the said Isaac Caulk by William Carmichael and John B. Eccleston Esquires his Attornies; But because the Court of Appeals here are not advised what judgment to give of and upon the premises day thereof is further given to the said parties before the Court of Appeals here, to hear there of their Judgment until the last Monday of November next for that the said Court here as yet are not &c. At which said last Monday in November being the twenty ninth day of the said Month in the year of Our Lord One thousand eight hundred and nineteen come again into the Court of Appeals here the parties aforesaid, by their Attornies aforesaid; thereupon further process of and upon the premises, between the parties aforesaid, is by virtue of an Act of Assembly in such case made and provided, further continued before the Court of Appeals here until the first Monday in June next; the same day is given to the said parties, there then to hear the Judgment of the Court of Appeals here of & upon the said premises &c. And now at this day to wit, the said first Monday in June being the fifth day of the said month in the year of Our Lord One thousand eight hundred and twenty come again into the Court of Appeals here the parties aforesaid, by their Attornies aforesaid. Whereupon as well the record of proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said John Denn Lessee as aforesaid above for error assigned, being seen, and by the Court of Appeals here fully understood and mature deliberation thereupon had, it appears to the Court here that there is no error in the Opinions of the said County Court and their refusal to direct the jury, as stated in the first & second Bills of exceptions in the record and proceedings aforesaid certified and the Court here concur in the Opinions of the said County Court and their refusal to direct the jury as stated in the said first and second Bills of exceptions. And it also appears to the Court here that there is error in the Opinion of the said County Court and their over ruling the Objection made by the said John Denn Lessee of the afs. Simon Wickes as stated in the third bill of exceptions in the said record and proceedings also certified and the Court here dissent from the Opinion of the said County Court and their over ruling the objection made by the said John Denn Lessee as afs. as stated in the said third bill of exceptions. And for that it appears to the Court here that in the record and proceedings aforesaid, and also in giving the Judgment aforesaid, there is Manifest error — Therefore it is considered by the Court here that the Judgment aforesaid in form aforesaid given by the said County Court be revoked annullied and held entirely as void and that the said John Denn Lessee as aforesaid be restored to all things which by reason of the judgment aforesaid he hath lost. It is also considered by the Court here that the said John Denn Lessee as aforesaid recover against the said Isaac Caulk the sum of One hundred & twenty six dollars & seventy three cents & one third of a cent for his costs and charges by him laid out and expended about his prosecution of the said Appeal aforesaid upon the premises and that the said John Denn Lessee as afs. have thereof execution &c. And thereupon the Court here, pursuant to the directions of the Act of Assembly in such case made and provided, order and direct a remission of the record & proceedings aforesaid to the Clerk of the County Court of Kent, with the Writ 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 there of 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 of Kent accordingly &c. —

Memorandum. Judgment, in the above case reversed on the third Exception and Affirmed on the first and second Bills of exception the fourteenth day of June Eighteen hundred & twenty And Procedendo, Awarded with One hundred and twenty six Dollars and seventy three cents and one third of a cent costs to the Appellant.

Attest James Parrott Clk. —

June Term 1820.

Simon Wickes Lessee
ags.
Isaac Caulk } Ejectment.

The Court's Opinion delivered by Dorsey Judge.

It has been urged by the Appellant's Counsel that the Deed from Miller & wife to Allowe, inserted in the first Bill of Exceptions, was inoperative on two grounds —

1st Because the Deed appeared to be acknowledged before its execution, and secondly, Because the names of the attesting Witnesses were erased. The first objection is not well founded in point of fact and must be abandoned by referring to the change produced by the alteration of the Calendar. —

The Court are of Opinion that the second Objection cannot be sustained. There is no evidence



in the record that any person or persons attested the execution of the Deed. By the inspection of the original Deed, the Names of two persons are written in the place where attesting Witnesses generally write their Names, and those Names are erased, but when they were erased, whether before or after the execution of the Deed, does not appear; and it is incumbent on the party who wishes to avoid a Deed by its erasure, to prove, that the alteration was made after its delivery and execution. Attesting Witnesses are not necessary to the validity of a Deed and the erasure of their Names, by a stranger, would not avoid it. As the Court were not therefore bound to presume that the erasure was made by the Grantee, or those claiming under him after the execution and delivery of the Deed. The Lessee of the Plaintiff could not call on the Court to declare the Deed inoperative. The Court are of opinion that the Judgment must be affirmed on the second Exception. Both the Deed & acknowledgement were recorded within the time prescribed by law, and altho the year in which the acknowledgement was made does not appear on the Deed in letters or figures, it must necessarily have been made within due time or it could not have been recorded within due time.

The next question which presents itself for the consideration of the Court, is this, has the Court erred in the Opinion which they gave on the third exception. —

It must be admitted that the Act of 1718 Chap. 18. created a special jurisdiction unknown to the common law, and clothed the Commissioners with powers of an extraordinary and we might add of a fright full nature. They were empowered to establish the boundaries of lands upon the application of any person, interested, and the parties litigant were debarred the aid of Counsel. No review or Appeal was allowed from their decision except to the King in Council, and that only in cases where the Acting Commissioners should adjudge, that the pretensions of the party grieved exceeded three hundred pounds Sterling. It was urged in argument by the Counsel for the Appellee that the proceedings of the Commissioners being unappealed from, and unreversed, must be conclusive evidence of the facts found by them, as all review, except before the King in Council is expressly interdicted by the Act.

It is a well established principle of Law, that the proceedings of any Tribunal not having jurisdiction over the subject Matter which it professes to decide, are void, and it is equally well established, that the proceedings of Tribunals of limitted Jurisdictions, must on the face of them state the facts which are necessary to give them Jurisdiction — The Circuit Courts of the United States, as it respects the jurisdiction between Citizens of different States, are considered as Courts of limitted Jurisdiction & therefore it must be averred on the record that the plaintiff and defendant are Citizens of different States, or their proceedings will be irregular. It is unnecessary to cite Authority to prove this proposition, as it must be familiar to all who have read the decisions of the Supreme Court as reported by Cranch.

That the proceedings of Tribunals having no Jurisdiction to decide the case are not void but void, is a proposition equally clear, and, among other cases, was fully established by the Court of Appeals on the Western Shore, in the Case of Dorsey's Lessee against Portis. Where the Court decided that a Plaintiff in an Ejectment might shew that a decree of the Chancellor, ordering lands to be conveyed in a case where he had no jurisdiction to make such a decree, was void, and therefore could give no title, tho' such decree had not been appealed from or reversed.

If the proceedings of this a case in which the Commissioners who did act, had power to act, their Award is final, until reversed in the Manner prescribed by the Act, but if on the contrary they shew themselves, that they had no jurisdiction, the whole must be considered as coram non judice and therefore a Nullity. The Law provides that the Commissioners named by the Governor shall meet at their several and respective Court Houses the second day of every County Court, to receive the petitions, which must be in writing, of all persons that shall have occasion to make application to them for the ascertaining the bounds of any lands lying in the County, provided that the party petitioning, twenty days before preferring such petition shall have given due notice of his intention to apply by setting up Notes at the Court House Door & Parish Church where the land lies certifying the time when he means to make application to the Commissioners, at which time & place all persons, both Complainants and defendants, concerned in the dispute about the bounds of such lands, are required to meet and in the presence of the Commissioners present to make choice of any number of the