And having located on the plot the possession of the plaintiffs, which plot & Certificate are annexed to and made part of this Bill of Exceptions, they then called Archibald Fowler a Witness examined on the survey, to the possession of the plaintiffs by whom they proved the possession of the tract of land called "The Remains of his Lordships Gracious Grant" in Dennis Dulany Mary Dulany & Walter Dulany under whom they claimed title, and also in the plaintiffs. The defendants upon cross-examination proved by the said Archibald Fowler that the land for which they take defence on the plot have been in the enclosed possession of the defendants and the persons from whom they claim, for thirty years (with the exception of the term of about one year, eight years ago) when part of the fence from about thirty or forty paunels from the red E. to the red D was removed and the lands remained open for one year and also with the exception of the land included within the lines from red A. to black D. to black C. which was taken in by one Seth Boyer a tenant to Conner about seventeen years ago, and that he the said Fowler being a tenant to the Dulanys not knowing exactly where the line was put up the fence from the red A. to black C. as a Divisional one. The Counsel for the Defendants objected to this Evidence as being incompetent & insufficient and the Court being of opinion that the evidence to prove the Will of said Mary Dulany was insufficient prevented the same from going to the Jury to which opinion the plaintiffs by their Counsel excepted and prayed the Court to sign this Bill of Exceptions. Lent Purnell (Seal) Tho. Worrell (Seal)

And thereupon the aforesaid Mary Dulany, Grafton Dulany and Sarah Dulany Devisees of Walter Dulany as aforesaid by their attorney aforesaid pray an Appeal from the Judgment aforesaid so as aforesaid rendered to the Court of Appeals to be held for the Eastern Shore of Maryland at Easton in Talbot County, on the second Monday of December next and the same is granted to them. It is therefore ordered by the Court here that the record and proceedings in the plea aforesaid with all things thereunto relating be transmitted to the said Court of Appeals and the same are hereby transmitted accordingly. Test Ben: Chambers Clk

Maryland Kent County set. I hereby certify that the aforegoing is truly taken from the record of proceedings of the County Court of Kent aforesaid.

In Testimony whereof I do hereunto subscribe my name and affix the public seal of my office at Chestertown on this twenty eighth day of November in the year of our Lord eighteen hundred & eleven and in the thirty sixth year of the Independence of the United States of America. Seal of Kent County Court — Ben: Chambers Clk. of Kent County Court (Seal)

And now here comes into the said Court of Appeals as well the said James Conner, Benjamin Conner & Martha Conner by James Houston Esquire, their attorney, as the said Mary Dulany, Grafton Dulany, and Sarah Dulany, Devisees of Walter Dulany as aforesaid by James Houston, Esquire, their attorney, and thereupon on motion of the said James, Benjamin & Martha Conner by their attorney aforesaid, it is ruled by the Court here, that the said Mary, Grafton & Sarah Dulany Devisees as aforesaid, assign the errors in the record and proceedings of the Judgment aforesaid, a Judgment by the Court here will be rendered against them in default thereof; and the said Mary Grafton & Sarah Dulany, Devisees as aforesaid, by their attorney aforesaid say, that in the record and proceedings aforesaid, and also in the giving of Judgment aforesaid there is manifest error in this to wit, that by the record aforesaid it appears that the Judgment aforesaid in the plea aforesaid given was given for the said James Benjamin & Martha Conner, when by the law of the land that Judgment ought to have been given for the said Mary, Grafton and Sarah Dulany, devisees as aforesaid against the said James, Benjamin & Martha Conner, therefore in that there is manifest error, and they pray that the Judgment aforesaid for that error and others being in the record and proceedings aforesaid may be reversed annulled and held entirely as void and that they the said Mary, Grafton & Sarah Dulany, Devisees as aforesaid may be restored to all that they

have lost by occasion of the said Judgment, and that the said James Benjamin & Martha Conner may respond to the errors aforesaid &c. by the said Mary, Grafton and Sarah Dulany, Devisees aforesaid above assigned in the record and proceedings of the Judgment aforesaid, a Judgment by the Court here will be rendered against them in default thereof; and the said James Benjamin Conner, by their attorney aforesaid pray a further day in Court here until the first Monday of June next and to join in the error by the said Mary, Grafton & Sarah Dulany, devisees as aforesaid above assigned in the record and proceedings aforesaid and they have it, the same day is given to the said, Mary, Grafton and Sarah Dulany, Devisees as aforesaid &c. At which day to wit, the first Monday of June eighteen hundred and twelve, come again into the Court of Appeals here the parties aforesaid by their attorneys aforesaid, and the said James, Benjamin & Martha Conner by their attorney aforesaid say, there is no error in the record and proceedings aforesaid or in the rendition of the Judgment aforesaid and pray likewise that the Court here may proceed to the Examination, as well of the record and proceedings aforesaid, as of the pleadings aforesaid by the said Mary, Grafton & Sarah Dulany, devisees as aforesaid above for errors assigned, and that the said Judgment may be in all things affirmed &c. whereupon it is ruled by the Court here, that the matters in controversy, between the parties aforesaid be argued and fully discussed, as well on the part of the said James, Benjamin & Martha Conner as of the said Mary, Grafton & Sarah Dulany, devisees as aforesaid, before the Judges of the Court here &c. and the said, James, Benjamin & Martha Conner by their attorney aforesaid, pray leave of the Court here to imparle until the last Monday of November next, and they have it, the same day is given to the said Mary, Grafton & Sarah Dulany, devisees as aforesaid &c. At which day, to wit, the last Monday of November Eighteen hundred and twelve come again into the Court of Appeals here the parties aforesaid by their attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the Court here thereon is further continued until the first Monday of June next. At which day, to wit, the first Monday of June Eighteen hundred and twelve, come again into the Court of Appeals here the parties aforesaid by their attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the Court here thereon is further continued until the last Monday of November next. At which day, to wit, the last Monday of November, eighteen hundred and thirteen, come again into the Court of Appeals here the parties aforesaid by their attorneys aforesaid; thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the Court here thereon is further continued until the first Monday of June next. And now here at this day, to wit, the first Monday of June, Eighteen hundred and fourteen, come again into the Court of Appeals here, the parties aforesaid by their attorneys aforesaid, whereupon all and singular the premises being seen, and by the Court here more fully understood & mature deliberation thereupon had, for that it appears to the Court here that there is manifest error in the record and proceedings aforesaid, and also in the rendition of the Judgment aforesaid, therefore 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 utterly as void, and that the said Mary, Grafton and Sarah Dulany, Devisees as aforesaid be restored to all things which by reason of the Judgment aforesaid they have lost, and because it clearly appears to the Court here, that Justice and the merits of this case require that there should be a new trial of the issue aforesaid, thereupon the Court here, according to the direction of the Act of Assembly in such case made and provided, order and direct a remission of the record and proceedings aforesaid to the Clerk of the said 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 thereof, in the same manner as if no trial had taken place on any appeal had been prosecuted. It is also considered by the Court here that the said Mary, Grafton and Sarah Dulany, devisees as aforesaid recover against the said James, Benjamin