November Term 1795

Maccubbin is adjudged to give Special Bail to the Action aforesaid, Whereupon the said Zachariah Maccubbin by John Thomson Mason his Attorney files in Court here, the following Bail piece, to wit. ~

Alexander Hamilton vs. Zachariah Maccubbin

You Daniel Candler and Thomas Maccubbin do Jointly and severally acknowledge yourselves Special Bail for the said Zachariah Maccubbin at the Suit of the said Alexander Hamilton in an Action of Debt brought by the said Alexander Hamilton against the said Zachariah Maccubbin in the General Court for the Western Shore of State of Maryland, They Acknowledge themselves to be content therewith this 7th day of May 1795. ~

Before. Rd. Anderson, Henry Brookes.

To the Honorable Judges of the General Court. ~

I Zachariah Maccubbin impower authorize and appoint John T. Mason Esqr. to appear for me in the above Action Given under my hand this 7th. day of May 1795. ~

Witness Henry Brookes. ~ Zachariah Maccubbin. ~

And the said Zachariah Maccubbin by John Thomson Mason his Attorney aforesaid defends the force and injury when and soforth, And prays leave of the Court to Imparle hereunto untill next Court, and he hath it, the same day is given to the aforesaid Alexander Hamilton also ~ At which said next Court, to wit, the second Tuesday of October being the thirteenth day of the same Month Anno Domini seventeen hundred and ninety five comes again here into our General Court as well the aforesaid Alexander Hamilton by his Attorney aforesaid, as the aforesaid Zachariah Maccubbin by his Attorney aforesaid, And the said Zachariah Maccubbin by his Attorney aforesaid, as before defends the force and injury when and soforth, And saith that the aforesaid Alexander Hamilton his action aforesaid against him to have or maintain ought not &c. because he saith that he the said Zachariah Maccubbin did pay unto the aforesaid Alexander Hamilton the said sum of Money in the condition of the said Writing obligatory mentioned with Legal Interest thereon according to the form and effect of the Condition of the said Writing obligatory And this he is ready to verify; wherefore he prays Judgment if the aforesaid Alexander Hamilton his action aforesaid against him to have or maintain ought &c. ~

And the said Alexander Hamilton saith that he by any thing by the aforesaid Zachariah Maccubbin above in pleading alledged from having or maintaining his action aforesaid against him ought not to be precluded, because he saith that the aforesaid Zachariah Maccubbin hath not paid unto him the said Alexander Hamilton the aforesaid sum of Money in the Condition aforesaid, mentioned with the Interest thereon in such manner and form as the aforesaid Zachariah Maccubbin above by pleading hath alledged, And of this he prays may be enquired of by the Country. And the aforesaid Zachariah Maccubbin in like manner and soforth, Therefore let a Jury thereupon appear before the Judges of our General Court here on the second Tuesday of [illegible] next, by whom &c. and who neither &c. to recognize &c. because as well &c. the [illegible] day is given to the parties aforesaid then and there &c. ~

And [illegible] at the [illegible] day, to wit, the said second Tuesday of May being the [illegible] Month Anno Domini seventeen hundred and

ninety six comes again here into our General Court as well the aforesaid Alexander Hamilton by his Attorney aforesaid, as the aforesaid Zachariah Maccubbin by his Attorney aforesaid Nevertheless the aforesaid Zachariah Maccubbin by his Attorney aforesaid relinquishing the Averment aforesaid above by him pretended says that he cannot deny the Action aforesaid of the said Alexander Hamilton so as aforesaid against him brought, nor but that he owes to the said Alexander Hamilton the aforesaid sum of Four hundred and ninety seven pounds six shillings Current Money in manner and form aforesaid so as the aforesaid Alexander Hamilton above against him hath declared. Therefore it is considered by the Judges here that the said Alexander Hamilton recover against the aforesaid Zachariah Maccubbin as well the sum of Four hundred and ninety seven pounds six shillings Current Money his Debt aforesaid in form aforesaid confessed, as also the quantity of Eight hundred and five pounds of Tobacco by the Court here unto the said Alexander Hamilton on his Assent adjudged as well for his damages sustained by reason of the detention of that Debt as for his Costs and charges by him about his Suit in this behalf laid out and expended. And the said Defendant in Mercy &c. ~

Memorandum. Judgment was rendered in this cause, on the Eleventh day of May Anno Domini seventeen hundred and ninety six, for penalty and Costs of Suit. And the Plaintiff agrees to release the penalty upon the payment of principal Interest and Costs, and agrees to stay Execution untill the first day of August next, payments if any to be allowed. ~

Test, John Gwinn. Clk. ~

Afterwards, to wit, On the Twenty eighth day of July Anno Domini seventeen hundred and ninety six, the aforesaid Zachariah Maccubbin produced the Writ of the State of Maryland of Error commanding the Judgment aforesaid, to be transmitted to the High Court of Appeals of the said State, the tenor whereof ensues in the words and figures following to wit, ~ Maryland, ss. The State of Maryland, To the honorable the Judges of the General Court Greeting. Because in the Record and process and also in the rendering of Judgment on a certain Action brought by Alexander Hamilton against Zachariah Maccubbin for the sum of five hundred and ninety seven pounds six shillings Current Money and Eight hundred and five pounds of Tobacco costs of suit, at a General Court held before you our said Judges at May Term last, Manifest Error as it is said has happened to the great damage of the said Zachariah Maccubbin as of his complaint we have received and we being willing that the Errors if any there be should be duly corrected and full and speedy Justice done to the said Zachariah Maccubbin in this behalf Command you that if Judgment be thereof rendered that then the Record and process aforesaid with all things thereunto relating under your seals distinctly and openly you send and this Writ, so that the same may be had before the Judges of our High Court of Appeals at Annapolis the second Tuesday in November next, that the Record and process aforesaid being inspected into we may further do therein for the correcting that Error which of right and according to the Laws and Customs of this State may be done. Witness the Honorable Alexander Contee Hanson Chancellor this twenty eighth day of July in the year of our Lord One thousand seven hundred and ninety six. ~

Samuel Harvey [illegible]