he never during the time Mr. Clagett was on board, heard anything from himself or Captain Speak directly nor indirectly about any promise from the Captain to Mr. Clagett to see the negroes safe up to George Town, and that if he had, he as first mate of the ship would have thought it his duty to have prevented their going away without some other precaution.

Sworn before Thos. Turner.

We admit and agree that the Deposition shall be read to the jury in the cause now depending between James Clagett Pltff, and Josias Speake Deft. in the General Court.

18th May 1798. James Clagett
John T. Mason for Deft.

And the said James Clagett by his attorney aforesaid offers himself ready for trial against the said Josias Speake in the plea aforesaid, whereupon to try the issues aforesaid between the parties aforesaid above joined to be tried by the country, the jurors of the jury whereof mention is within made being called, do not appear but make default, and because the said Josias Speake is not ready for trial against the said James Clagett in the plea aforesaid, the said James Clagett by his attorney aforesaid prays judgment against the said Josias Speake for the costs and charges which he hath sustained in and about his defence in this behalf since the last continuance of the plea aforesaid.

Therefore it is considered by the court here, that the said James Clagett recover against the said Josias Speake the quantity of sixteen hundred and forty two pounds of tobacco for his costs and charges by him sustained about his suit in this behalf since the last continuance of the plea aforesaid. Therefore as before let a jury thereon come before the court here on the second Tuesday of May next, by whom and so forth, and who neither and so forth, to recognize and so forth, because as well and so forth, the same day is given to the parties aforesaid then and there and so forth.

And

And now at this day to wit, the said second Tuesday of May being the eighth day of the same month in the year of our Lord one thousand come again into the General Court here as well the said James Clagett by his attorney aforesaid, as the said Josias Speake by John Thompson Mason and Luther Martin his attornies, and the said Josias Speak by John Thompson Mason and Luther Martin his attornies aforesaid withdraws the pleas limitations herein before set forth in this cause.

Whereupon to try the issues aforesaid between the parties aforesaid above joined to be tried by the Country, The jurors of the jury whereof mention is within made, being called come, that is to say, James Machubin, Bennet Walker, Alexander Grear, William Welch, William Simpson, John Graham, Richard Chenoweth, Jacob Drullinger, Caleb Owings, Thomas Tillard, Philip Spohn, and Nicholas Tice, who being duly elected, tried, and sworn to say the truth in the premises upon their oath do say, that the said Josias Speake did undertake and in manner and form as the said James Clagett hath within complained against him; and they assess the damages of the said James Clagett by reason of the nonperformance of the promise and assumption aforesaid to the sum of two hundred and fifty pounds current money besides his costs and charges by him about his suit in this behalf laid out and expended. And the said Josias Speake by his attornies aforesaid, saith that the Court here ought not to proceed to render judgment upon the said verdict, and prays judgment against him in and upon the said verdict, by the jurors aforesaid, in form aforesaid given may be set aside, because the said verdict is erroneous and given contrary to the evidence disclosed to the said court and jury on the trial of the issue aforesaid, and that the said issue may be tried anew by other jurors to be fresh impanelled. Whereupon all and singular the premises being seen and by the Court here more fully

understood