understood and mature deliberation thereon had, for that it seems to the court here, that the said verdict is in no wise erroneous, and that the same ought not to be set aside, and that no new trial ought to be had of the issue aforesaid.

Therefore it is considered by the Court here, that the said James Clagett recover against the said Josias Speak as well the sum of two hundred and fifty pounds current money his damages aforesaid by the said jury in form aforesaid assessed, as the sum of one hundred and two Dollars and the quantity of sixteen hundred and forty two pounds of tobacco by the Court here unto him on his assent adjudged, for his costs and charges by him about his suit in this behalf laid out and expended: and the said Josias Speak in mercy and so forth.

Test Jno Gwinn Clk

Memorandum: Before the jurors withdrew from the Bar of the court here the said Josias Speak, by his attornies aforesaid filed in court here the following Bill of Exception to wit

James Clagett vs Josias Speake } Case.

The plaintiff in this cause in order to support the issue joined, offered Evidence to the jury, that the Plaintiff with four of his negroes had been at work on a ship at Alexandria of which the Defendant was Captain, and that on Thursday the Plaintiff was about to quit the said ship before she was done, on which occasion the Defendant remonstrated against it and requested the Plaintiff to suffer his negroes to stay and finish the work, and that provided the said negroes were left, he promised and engaged to carry up the said negroes from Alexandria to George Town in the ship's yawl on the Saturday following, and deliver them safe to the Plaintiff, and then offered Evidence that on the Saturday the

the mate of the ship having asked the captain if they had any thing more to do, and being answered no, discharged the said negroes, and afterwards the negroes left the vessel, and went off in a pilot boat which was going from Alexandria to George Town, and that the pilot boat overset in her passage, and the two negroes mentioned in the said Declaration were drowned. After which the Defendant offered in evidence to the jury, that the Plaintiff after the agreement with the Defendant (but offered no other Evidence that this was in the defendant's absence except the Deposition hereto annexed) as he was leaving the said ship ordered the said negroes, that on Saturday they must leave the said ship, the work done or not, and make the best of their way home, and take care of their tools, That on giving the said orders the plaintiff left the said ship, and returned no more to it; That the said Plaintiff did not at the time of such orders give any directions to the said Negroes, about the manner in which they should return home, or that they were to go with the defendant or that they were to apply to him the Defendant for any assistance when coming away, and thereupon the Defendant prayed the court to direct the jury that although they should believe the facts so offered in Evidence by the Plaintiff to be true, yet if they believed that the said Plaintiff had afterwards, and in the absence of the defendant thus given his directions as aforesaid, to his negroes aforesaid, without referring them to the said defendant, or directing them to go home under the defendant's care, the defendant was thereby freed from responsibility, and was not liable for the loss of the said negroes.

Whereupon the Court were of opinion and directed the jury that if they should be of opinion from the whole of the evidence, that the Plaintiff gave the said negroes orders to return consistent with the contract and engagement made by the Defendant, and the said Plaintiff, then such directions so given to the negroes would release the Defendant from any responsibility