

**Bingham Vs. Cabot**

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**SooperKanoon Citation :** [sooperkanoon.com/78178](http://sooperkanoon.com/78178)

**Court :** US Supreme Court

**Decided On :** 1798

**Appeal No. :** 3 U.S. 382

**Appellant :** Bingham

**Respondent :** Cabot

**Judgement :**

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## **SYLLABUS**

It is necessary to set forth the citizenship, or alienage, if a foreigner is the party, in order to bring the case within the jurisdiction of the circuit court of the United States.

This action came again before the Court, on a writ of error, and an objection was taken to the record that it was not stated and did not appear in any part of the process and pleadings that the plaintiffs below and the defendant were citizens of

different states, so as to give jurisdiction to the federal court. The caption of the suit was

"At the circuit court begun and held at Boston, within and for the Massachusetts District, on Thursday, the first day of June, A.D. 1797, by the Honorable Oliver Ellsworth, Esq., Chief Justice, and John Lowell Esq., District Judge, *John Cabot, et al. versus William Bingham.* "

And the declaration (which was for money had and received to the plaintiff's use) set forth

"That John Cabot, of Beverly, in the District of Massachusetts, merchant and surviving co-partner of Andrew Cabot, late of the same place, merchant, deceased, Moses Brown, Israel Thorndike, and Joseph Lee, all of the same place, merchants, Jonathan Jackson, Esq. of Newbury Port, Samuel Cabot, of Boston, merchant, George Cabot, of Brooklyn, Esq., Joshua Ward, of Salem, merchant, and Stephen Cleveland, of the same place, merchant, all in our said District of Massachusetts, and Francis Cabot, of Boston,

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aforesaid, now resident at Philadelphia aforesaid, merchant, in plea of the case, for that said William, at said Boston, on the day of the purchase of this writ, being indebted to the plaintiffs, etc. promised to pay, etc."

The defendant pleaded *nonassumpsit*, and an issue being thereupon joined and tried, there was a verdict and judgment for the plaintiff for \$27,224.93 and costs.

The Court was clearly of opinion that it was necessary to set forth the citizenship (or alienage, where a foreigner was concerned) of the respective parties in order to bring the

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case within the jurisdiction of the circuit court, and that the record in the present case was in that respect defective.

This cause and many others in the same predicament were accordingly struck off the docket.

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