

Case No. 180.

ALEXANDRIA v. BOWNE.

[1 Cranch, C. C. 124.]²

Circuit Court, District of Columbia.

June Term, 1803.

PLEADING—ISSUE—INFORMALITY.

If in an action of debt upon a bond with collateral condition, the entry of the pleadings be “covenants performed,” “joined,” the court will send the cause back to the rules as not being at issue.

At law. Debt on auctioneer’s bond, for the penalty of \$10,000, with a profert. On the back of the declaration is an indorsement in these words: “The plaintiff assigns for breach of the condition of the said bond in the declaration mentioned, this, to wit, that the said M. F. Bowne,” &c., “have failed to pay to a certain Thomas Patton, the administrator of S. Wallace, deceased, £15. 9s. 8d. due and owing from them as vendue masters to the said Thomas Patton, as administrator as aforesaid, for the sales at vendue, of certain goods, wares, &c., deposited with the said Bowne, &c., in the year 1795, by the said S. Wallace, deceased, and by them sold at vendue as aforesaid.” “Declaration filed April, 1802—May, rule plea—June, oyer of the bond and covenants performed, joined.” The plea is not filed, but only noted on the minutes. There was no replication.

THE COURT sent the cause back to the rules after striking out the entry of issue joined.

KILTY, Chief Judge, absent.

² [Reported by Hon. William Cranch, Chief Judge.]