

Case No. 183.

ALEXANDRIA v. CORSE.

[2 Cranch, C. C. 363.]¹

Circuit Court, District of Columbia.

Nov. Term, 1822.

PRINCIPAL AND SURETY—LIABILITY OF SURETY—WANT OF SKILL—GROSS NEGLIGENCE.

The surety in an official bond, conditioned that the principal shall faithfully execute the duties of his office, is not liable for the honest error, in judgment or want of skill, of the principal. But gross negligence is want of fidelity.

At law. Debt, against the surety of one Talbot, an inspector of fish, upon his official bond faithfully to execute the duties of the office.

Mr. Mason, for defendant, prayed the court to instruct the jury that the defendant was not liable upon this bond, for honest error in judgment, or want of skill; and cited [President, etc., of Union Bank v. Clossey,] 10 Johns. 271.

THE COURT, (THRUSTON, Circuit Judge, absent,) at the prayer of the defendant's counsel, instructed the jury, that the defendant was only liable for the faithful discharge of Talbot's duty as inspector, and was not liable for his honest error in judgment, or want of skill.

But the court, at the prayer of the plaintiff's counsel, further instructed the jury, that if the inspector was guilty of gross negligence in examining the fish, he did not faithfully execute the duties of his office in that respect.

¹ [Reported by Hon. William Cranch, Chief Judge.]