

Case No. 186.

ALEXANDRIA v. PATTEN.

[1 Cranch, C. C. 294.]¹

Circuit Court, District of Columbia.

March Term, 1806.

PLEADING—TENDER—PROCEDURE.

The plaintiff, upon a plea of tender, cannot take out the money and proceed for more.

[Cited in *Ye Seng Co. v. Corbitt*, 9 Fed. Rep. 431.]

At law. Plea of tender, &c. Before trial of the issue,

Mr. Swann, for plaintiff, moved the court for leave to take out the money and go on for the balance of his claim. Esp. N. P. 161.

THE COURT thought the plaintiff could not take the money out and then proceed for more.

[NOTE. This case seems to have proceeded to judgment, which was for defendants. Plaintiffs excepted to the instructions of the trial judge, and obtained a reversal by the supreme court on writ of error,—see *Mayor, etc., of Alexandria v. Patten*, 4 Cranch, (8 U. S.) 317; but the above ruling was not involved in the case before the supreme court.]

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