

Case No. 16,638.

UNITED STATES V. WANN ET AL.

{3 McLean, 179.}¹

Circuit Court, D. Illinois.

June, 1843.

RECEIVER OF PUBLIC MONEYS—LIABILITY OF SURETIES.

1. The sureties of a receiver of public monies are responsible for any neglect of the receiver which appertains to the duties of his office.
2. But, the government cannot pay an extravagant sum, for the performance of the labor neglected by the receiver, and charge his sureties with such sum.
3. The government in such a case is entitled to recover what shall be a reasonable compensation for the labor performed.

{This was an action by the United States against Wann and Bennett to recover money.}

Mr. Butterfield, U. S. Dist. Atty.

Breese & Campbell, for defendants.

McLEAN, Circuit Justice. This action is brought against the defendants as sureties of Evans, late receiver of public monies. The receiver neglected to bring up his books, and his successor was required to perform that duty, for which he received from the government three thousand dollars. And the plaintiffs claim the above sum from the sureties of the receiver, he being dead. The court instructed the jury that the defendants were responsible for the faithful performance of his duties by the late receiver. But that the sum paid by the government for bringing up the books is not to govern them in their verdict, unless they shall think it was a reasonable compensation for the labor performed. It is no more in the power of the government than of an individual, to charge an extravagant sum for neglected duty, by paying such sum to a person who did the work. The plaintiffs are entitled to recover, what the jury shall think will be a reasonable compensation for making the necessary entries in the books of the late receiver, which he, in his life time, had neglected to make. The jury found verdict in pursuance of this instruction, &c. Judgment.

¹ [Reported by Hon. John McLean, Circuit Justice.]