liability of those who assured its performance. If this be correct, did the contemplated change of the contract justify the agreement for the 70-feet extension of the dock? This presents a grave question, and its solution requires some just rule of general application. Do sureties, by consenting to changes involving an enlargement of the work, consent to an unlimited extension thereof? Could the dry dock have been doubled in length? If the contract were for a 2-story house, could it have been increased to 20 stories? If it were agreed that the material should be of wood, could marble be substituted? Obviously, such excessive changes would not be within the thought or the understanding of the parties or the sureties. But a rule of interpretation, otherwise suitable, cannot be defeated by showing the absurdity of its unlimited application. All rules operate within reasonable limits, and the court regards their legitimate use, and not their abuse. Where a building contract contemplates changes in the work, which will bind the sureties for the fulfillment of the contract as modified, the changes subsequently made must bear in extent and value some reasonable ratio to the original structure. If the plans and specifications call for a house of particular dimensions and quality, a consent to changes anticipated in the contract should be construed to be limited to changes relevant to, and consistent with, the structure first projected. Changes of such nature, and only such changes, would be anticipated by all the parties to the contract as would be reasonable and cognate to the structure primarily planned, and its purpose. In the case at bar a large dry dock was required by the United States to be located at a principal navy yard, and it was manifestly intended for the accommodation of all classes of government vessels. Article 7 manifestly contemplated that changes in its dimensions might be required, and provided for auxiliary contracts for fixing a due consideration for such extension, without disturbing otherwise the continuance of the principal engagement. The subsidiary contract provided for an extension of 70 feet, which was nearly 12 per cent. of the length first adopted, at an increased cost of about $7\frac{1}{2}$ per cent. of the whole consideration. Considering the magnitude of the structure as first intended, and its great expense, and the large use to which it was devoted, the change seems to be such as the parties might have had in view in subscribing to the provisions of the seventh article. The change is a homogeneous, and not an incongruous, addition, nor even a duplication of parts, as would be the case in multiplying the stories of a house; but it is the mere symmetrical enlargement or extension of a specific thing, the construction of which was undertaken, and such enlargement is not greater than the customary use of a dry dock by the government might demand in common reason. Although article 7 might well have contained clearer provisions for the continued obligation of the sureties and the protection of the government thereby, yet it seems to admit fairly of the interpretation given.

There have been various judicial expositions of the allowable departure from original plans and specifications, when some change of plans was contemplated by the original building contract, to some

of which reference will be made. Slight and inexpensive departure did not release the sureties. Risse v. Planing-Mill Co. (Kan Sup.) 40 Pac. 904 (see cases in opinion). So, reasonable alterations that did not materially increase the cost. Consaul v. Sheldon, 35 Neb. 247, 52 N. W. 1104. So, change of material for the window lintels of a court house from stone to railroad iron. Howard Co. v. Baker, 119 Mo. 397, 24 S. W. 200. So, sinking the foundation of a building two or three feet deeper, in the course of repair. Club v. Finlay, 53 Mo. App. 250. So, enlargement of a church 3½ feet, and the change of the material for certain foundations from brick to stone, the court stating that "it is no argument against the construction adopted that there is great difficulty in fixing a limit within which additions and alterations might be made." Wehr v. Congregation, 47 Md. 177. So, even unnecessary alterations, amounting to less than $250, made by direction of the architect. Association v. Fitzmaurice, 7 Mo. App. 283. So, in the case of a contract to build waterworks, where a line of pipes to be laid in a highway for a distance of over 2,500 feet was transferred to private property; another line was changed from one street to another, and considerably lengthened; another line was shifted for a distance of over a mile, so as to be at some points 200 feet from that marked on the original plans; and where the dimensions and length of some of the pipes also varied, so as to call for additional expense on the part of the contract, none of which changes were necessary to the proper fulfillment of the work. Village of Chester v. Leonard, 68 Conn. 495, 37 Atl. 397. So, in the erection of a building in the city of Fargo, North Dakota, where alterations were made, which increased the price $1,000 (Lodge v. Kennedy [1897; N. D.] 73 N. W. 524). So, the surety on a bond for the faithful performance of a building contract, which provided that the owner should have the right during the progress of the work to make changes and alterations in the building, was not released by the fact that during the progress of the work some changes and additions in the building were made which increased its cost to an inconsiderable extent. Hayden v. Cook, 34 Neb. 670, 52 N. W. 165.

Respecting the change of location of the dry dock, a different conclusion is necessary. The contract itself, as distinguished from the plans and specifications, provides that the dock shall be built on the water side, while the supplemental contract expressly changes the location to a point 70 feet from the water side, and provides that the contractor shall do all the excavation and work, and furnish all the additional material, necessitated by the change, at an increased remuneration of $5,063.18. The transfer of the site 70 feet from the water side is of itself a distinct departure from the original project. In considering whether this change releases the sureties, it should be remembered that broad, liberal, and equitable considerations may not prevail, but rather that the rule is technical and strict. It has been said that sureties are favorites of the law. Ludlow v. Simond, 2 Caines, Cas. 1, 29. It may be said better that the surety assures the performance of a certain contract, and his liability is conditioned inflexibly upon the continuance of the very terms of that contract.

If the principal parties thereto change their agreement, there springs into being a new contract, to which the sureties are strangers; and, if the guaranty of its performance is desired, it must be obtained de novo. Of this a learned judge said as follows:

"Now, it must always be recollected in what manner a surety is bound. You bind him to the letter of his engagement. Beyond the proper interpretation of that engagement you have no hold upon him. He receives no benefit and no consideration. He is bound, therefore, merely according to the proper measure and effect of the written engagement he has entered into. If that written engagement is altered in a single line, no matter whether it be altered for his benefit, no matter whether the alteration be innocently made, he has a right to say: 'The contract is no longer that for which I engaged to be the surety. You have put an end to the contract I guarantied, and my obligation therefore is at an end.'" Blest v. Brown, 6 Law T. (N. S.) 620.

This holding illustrates the tendency of the rule. In any case, the surety, in binding himself to the first contract, limited rigidly his liability to that instrument, and its scope measures with precision his undertaking. If he consented to vouch unwisely, he is entitled to suffer to the full measure of his folly, without a favorable revision of his liability by the principal. And, on the other hand, it is his right to fix the final boundary of his faith in the financial, and, in the case of a building contract, the architectural, capacity of his principal, and mark out in the agreement whatever method should attend the execution of the work; and the main contracting parties may not add ever so little to the burden which the contractor has assumed, or deviate from the methods which were to accompany its fulfillment. It results from this that he who would charge a surety for his principal's breach of contractual duty must travel without deviation the way pointed out in the contract, however iron-bound it may be, for there is for the surety in the enforcement of his bond no equity nor latitude beyond its strict terms. Such is the nature of the implied condition upon which the surety's liability depends.

In the case at bar the plaintiff is bound, when a breach of condition is alleged, to plead performance or waiver of the condition, which waiver would be inferred from a consent to the change of location. But this it has failed to do, because, from the nature of the case, it could not be done. At this juncture the seventh article does not aid. That article consents to changes in the plans and specifications "annexed" to the contract, and the whole article has immediate and sole reference thereto, and does not provide for alteration in the location of the structure itself, which location is no part of the plans and specifications, but has its own distinct place in the contract. Therefore there seems to be no saving clause respecting this change of location, and the case falls within the stern rules which have been presented. Some knowledge of the strictness with which the law here involved has been applied may be obtained from a consideration of similar contracts.

In U. S. v. Corwine, 1 Bond, 339, 25 Fed. Cas. 671, the principals bound themselves to the United States to open a ship canal 300 feet wide and 20 feet deep, and keep it open, of such dimensions, for 4½ years from the time of acceptance by the secretary of war. The