

Case No. 8,934.

MADDOX v. STEWART.

[2 Cranch, C. C. 523.]¹

Circuit Court, District of Columbia.

Dec. Term, 1824.

COURTS—JURISDICTIONAL AMOUNT—CREDIT TO REDUCE—ASSENT
PRESUMED—JUSTICE OF PEACE—APPEAL FROM.

1. If a creditor gives a credit upon his account so as to bring it within the jurisdiction of a justice of the peace, and if the debtor does not object to the credit before the justice, his assent to the credit will be presumed.
2. No appeal lies from the judgment of a justice of the peace rendered upon the verdict of a jury.

Appeal from the judgment of a justice of the peace, upon the verdict of a jury.

[This was a suit by W. R. Maddox against Archibald Stewart.]

THE COURT (MORSELL, Circuit Judge, contra) dismissed the appeal, upon the ground that a fact once tried by a jury cannot be reexamined otherwise than according to the rules of the common law. (See the

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seventh amendment to the constitution of the United States.) And that a second trial by jury in another court is not according to the rules of the common law.

J. Dunlop, for appellant, contended that it appeared, by the account on which the judgment was rendered, that the appellee had given a credit "by gift, &c." so as to leave a balance of \$50, and bring his claim within the jurisdiction of the justice; which he had no right to do.

Mr. Key, contra. That was done before application was made to the justice for the warrant, and the appellant at the trial did not object to it, except that it was for too small a sum. Mr. Key cited the case of *Porter v. Rapine* [Case No. 11,288], in this court, at June term, 1812, in which it appeared that Rapine had released \$6.85 of his claim so as to give jurisdiction to the magistrate, who gave judgment for \$20; and this court affirmed the judgment, as it did not appear that the appellant had objected to the credit before the justice.

CRANCH, Chief Judge, mentioned the case of *Cazenove v. Darrell* [Id. 2,539], in Alexandria, in which the creditor had given a credit in order to bring his claim within the jurisdiction of the justice of the peace. The debtors objected to the credit before the justice; and this court decided that the creditor could not, without the consent of the debtor, release a part of the debt for that purpose.

THE COURT (THRUSTON, Circuit Judge, absent) was of opinion that as the appellant, in the present case, did not object to the credit before the justice, his assent may now be presumed; and that therefore the justice had jurisdiction of the cause.

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