

**Case No. 16,936.** VICTOR SEWING-MACH. CO. v. MINGUS.

[5 Reporter, 518;<sup>1</sup> 25 Pittsb. Leg. J. 125.]

Circuit Court, W. D. Pennsylvania.

March 2, 1878.

CIRCUIT COURTS—JURISDICTIONAL AMOUNT—DAMAGES.

The question of jurisdiction of the circuit court, where the same depends on the amount involved in the action, is to be determined by the amount of damages laid in the declaration.

Action of covenant on a bond for the performance of an agreement in the penal sum of \$1,000. The breach assigned in the narr and in the affidavit of claim amounted to \$141.52, but the damages laid in the narr. were \$1,000. The defendant pleaded to the jurisdiction that the amount involved did not exceed \$500. The plaintiff demurred.

W. R. Jennings, for plaintiff.

Sterrett, Kennedy & Doty, for defendant.

THE COURT held the plea bad on the ground that the damages laid in the declaration constituted the criterion as to jurisdiction—*Martin v. Taylor* [Case No. 9,166]; *Sherman v. Clark* [Id. 12,763]; MCKENNAN, Circuit Judge, remarking that inasmuch as the act of assembly, relative to suits on bonds to secure the performance of agreements, authorized the entry of judgment for the full amount of the penalty, execution to be restrained to the damages assessed for the breach, it would be a strange anomaly that the court could not entertain jurisdiction of a cause in which, if successful, the plaintiff could have judgment for one thousand dollars. Demurrer sustained.

<sup>1</sup> [Reprinted from 5 Reporter, 518, by permission.]