

WEST *v.* WOODS AND ANOTHER.¹

Circuit Court, E. D. Louisiana. November 20, 1883.

JURISDICTION—MATTER IN DISPUTE.

It is the settled doctrine that, so far as concerns courts of the first instance, the declaration or the pleading of the plaintiff presenting his claim is the sole test by which the jurisdiction is to be decided, so far as the matter in dispute is concerned.

Exception to Jurisdiction on the ground that the matter in dispute does not exceed the sum of \$500.

Charles B. Singleton and *R. H. Browne*, for plaintiff.

W. S. Benedict, for defendant.

BILLINGS, J. The petition presents as the cause of action an open account for the sum of \$797.51, with interest upon the various items from the dates when they respectively accrued. The exception or plea to the jurisdiction sets up that a credit of \$350 was purposely omitted by the plaintiff, and that his acknowledgment shows this; that therefore the matter really in dispute is only \$447.51. The settled doctrine is that, so far as concerns courts of the first instance, the amount or value stated in the declaration or the pleading of the plaintiff presenting his claim is the sole test of jurisdiction. The acknowledgment of the plaintiff would, of course, support a plea of payment *pro tanto*, but it would be only as proof in support of a counter-plea on the part of the defendant.

The subsequent admission of the plaintiff, showing a less amount really due than claimed, could have no greater effect upon the question of jurisdiction than a verdict or final judgment. *Kanouse v. Martin*, 15 How. 207. “The words ‘matter in dispute’ do not refer to disputes in the country, or the intentions or expectations of the parties concerning them, but

to the claims presented on the record to the legal consideration of the court. What the plaintiff thus claims is the matter in dispute, though that claim may be incapable of proof, or only in part well founded." See, also, *Gordon v. Longest*, 16 Pet. 97, and Curt. Comm. § 436; *Sherman v. Clark*, 3 McLean, 91. The jurisdiction, when dependent upon the amount in dispute, in case of appeal or writ of error, is determined by a different standard; there the test is the amount in dispute at the time the appeal is taken or the writ of error sued out. Where the declaration shows the requisite amount is demanded, this court has jurisdiction, and the amount finally found to be actually due can be considered only with respect to the costs.

The exception must be overruled.

¹ Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

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