

## TINTSMAN v. NATIONAL BANK.

Where, by an agreed statement of facts in the nature of a special verdict, the plaintiff's claim was admitted by the defendant, except the sum of \$3,134.20, — *Held*, that that sum was the amount actually in dispute, and although judgment was rendered below for the entire claim, being more than \$5,000, the writ of error must be dismissed for want of jurisdiction.

MOTION to dismiss a writ of error to the Circuit Court of the United States for the Western District of Pennsylvania.

The facts are stated in the opinion of the court.

*Mr. D. T. Watson* in support of the motion.

*Mr. Welty McCullogh*, *contra*.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

In *Gray v. Blanchard* (97 U. S. 564), we held that a case must be dismissed, if, on an examination of the whole record, it appeared that the value of the matter actually in dispute between the parties was less than our jurisdictional amount. This writ of error was brought by the defendant below to reverse a judgment against him of more than \$5,000; but on looking into the record we find that the case was heard on an agreed statement of facts in the nature of a special verdict, in which it appeared that the plaintiff claimed of the defendant \$8,233.79, and interest from June 4, 1876. The defendant admitted that he owed of this amount \$5,099.59, for which the plaintiff was entitled to a judgment. The only controversy was as to the liability of the defendant for the difference between what he admitted to be due and what the plaintiff claimed, or \$3,134.20. This, then, is the amount actually in dispute, and as it is less than \$5,000, we have no jurisdiction.

*Writ dismissed.*