

Opinion of the Court.

of the legal representatives of the decedent. As to this, it is sufficient to say that what was called by Chief Justice Marshall, in *Gordon v. Ogden*, 3 Pet. 33, "the silent practice of the court" has always been the other way. It is every-day practice to revive such suits, and the books are full of cases in which this has been silently done, no one apparently entertaining a doubt of its propriety.

The decree in each of the cases is affirmed.

MR. JUSTICE BLATCHFORD did not sit in these cases and took no part in their decision.

WABASH, ST. LOUIS & PACIFIC RAILWAY COM-
PANY *v.* KNOX.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF ILLINOIS.

Submitted January 14th, 1884.—Decided January 28th, 1884.

When the amount in dispute in this court is less than \$5,000 the court cannot take jurisdiction.

Motion to dismiss.

Mr. V. Warner for the motion and for defendant in error.

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

The judgment in this case was for \$5,237.15, but the record shows in many ways that of this amount \$727.42 was admitted to be due. A formal tender of that sum was made on the 26th of February, 1883, and the money deposited in court for Knox, the plaintiff, where it remained until the 14th of March, nine days after the judgment was rendered, when it was withdrawn by the railroad company, without prejudice, on the order of the court and with the consent and agreement of Knox. The bill of exceptions also shows an admitted liability of the company for the amount of the tender. The case is, therefore, in all material respects, like that of *Tintsman v. National Bank*, 100 U. S. 6, where the writ was dismissed, although the judg-

Syllabus.

ment was for \$8,233.59, because, by an agreed statement of facts in the record, it appeared that the defendant admitted he owed \$5,099.59 of the amount recovered. To the same effect is *Jenness v. Citizens' National Bank of Rome*, ante, 52. The amount in dispute here is no more than was in dispute below, and that was less than \$5,000.

The motion to dismiss is granted.

JEFFRIES, Administrator, v. MUTUAL LIFE INSURANCE COMPANY OF NEW YORK.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF MISSOURI.

Argued and submitted January 16th, 1884.—Decided February 4th, 1884.

Error—Contract—Copartnership.

K. died in Missouri, in 1871, having a policy of insurance on his life. J. was appointed there his administrator. L. and T., copartners as attorneys at law, brought a suit on the policy, in which, after a long litigation, there was a judgment for the plaintiff for \$13,495, in 1877, in a Circuit Court of the United States. J. had died in 1873, and C. had been appointed administrator in his place, and substituted as plaintiff. The case was brought into this court, by the defendant, by a writ of error. Before it was heard here L. compromised the judgment with the defendant, in 1879, receiving in full \$9,401.42, and entered satisfaction of the judgment on the record. C. then moved the Circuit Court to vacate the satisfaction, on the grounds that L. had no authority to enter it, and had been notified by C., after the compromise had been made and before the satisfaction had been entered, that he would not ratify the compromise, and that the compromise was unlawful because not authorized by the Probate Court. The Circuit Court heard the motion on affidavits, and found as a fact, that J. while administrator, entered into a contract with L. and T., whereby they agreed to prosecute the claim for a portion of the proceeds, with full power to compromise it as they should please, and that the claim was a doubtful one, and held that the compromise was rightly made, and that the plaintiff was bound by the contract of J. and denied the motion. On a writ of error by the plaintiff: *Held*, 1. This court cannot review such finding of fact, there being evidence on both sides, and the error, if any, not being an error of law; 2. The contract made was not champertous or unlawful, and J. had authority to make it; 3. The contract having given to L. and T. a power