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THE BURDEN OF PROVING PAYMENT.—In a recent West Virginia case, the sole defense was payment in full, asserted under the general issue, and a question arose as to who had the burden of proof. The majority opinion held that the burden rested upon the plaintiff. The correctness of the original debt was stipulated between the parties and the evidence was confined to the issue of payment; or, as perhaps the majority opinion would require it to be stated, to the issue of nonpayment. Following is the syllabus of the case:

"In the trial, under the general issue, of a notice of motion for judgment on an account, the defense being payment in full before suit brought, it is prejudicial error for the court to refuse to instruct the jury at the instance of the defendant that 'unless the plaintiff has proven the matters set up in the motion for judgment by a preponderance of the evidence,' they should find for the defendant.'"