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*Ballance v. Forsyth et al.*

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The decree of the Circuit Court must therefore be reversed, and the case remanded to the court, with directions to dismiss the appeal for want of jurisdiction. The District Court can then proceed to pass a final decree, if that has not been already done; and from that decree any party who may think himself aggrieved may appeal to the Circuit Court, and from the final decree of that court to this, where the sum in controversy is large enough to give jurisdiction to the respective courts upon such appeals.

This view of the subject makes it unnecessary to examine whether the amount in controversy between the parties in this appeal is over \$2,000; for their respective rights have not been judicially decided upon in the Circuit Court, for want of jurisdiction, as above stated, when it acted upon the controversy.

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CHARLES BALLANCE, APPELLANT, *v.* ROBERT FORSYTH, LUCIENE DUMAIN, AND ANTOINE R. BOUIS.

The court again decides that consent of parties cannot give jurisdiction to this court where the law does not give it; but leave is granted to the plaintiff in error to withdraw the transcript, and use it so as to bring his case legally before this court.

THIS was an appeal from the Circuit Court of the United States for the northern district of Illinois.

It was dismissed, and a motion made to reinstate it, under the circumstances stated in the opinion of the court.

Mr. Chief Justice TANEY delivered the opinion of the court.

This case was dismissed on the 20th of December last, because it did not appear that an appeal had been taken in the District Court. A motion has now been made to reinstate the case, and, in support of that motion, a written agreement, signed by the counsel for the appellant and appellee, has been filed, consenting to reinstate the case, to waive all irregularities, and to try the case on the merits.

But the consent of parties cannot give jurisdiction to this

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*Mason v. Gamble et al.*

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court, where the law does not give it. And, without an appeal taken in the District Court, this court has no jurisdiction, and the consent of parties cannot cure the defect. The motion is therefore overruled.

But if the plaintiff in error desires to supply the omission, and take an appeal in the District Court, and bring his case legally before us, he has leave, in order to save expense, to withdraw the transcript now filed, and to use it upon his appeal, leaving a receipt for it with the clerk of this court.

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JOHN T. MASON, PLAINTIFF IN ERROR, *v.* JOSEPH C. GAMBLE AND  
DAVID GAMBLE.

The act of Congress passed on the 3d of May, 1844, (5 Stat. at L., 658,) authorizes a writ of error, at the instance of either party, upon a final judgment in a Circuit Court in any civil action brought by the United States for the enforcement of the revenue laws, or for the collection of duties due or alleged to be due, without regard to the sum or value in controversy.

But this law does not include a case where an action was brought against the collector for the return of duties paid under protest, and where the recovery was for a less sum than two thousand dollars.

Such a case must be dismissed for want of jurisdiction.

THIS case was brought up by writ of error from the Circuit Court of the United States for the district of Maryland.

The case is stated in the opinion of the court.

A motion was made by *Mr. Campbell* to dismiss the writ of error for want of jurisdiction, which was opposed by *Mr. Black*, (Attorney General.)

Mr. Chief Justice TANEY delivered the opinion of the court.

A motion has been made to dismiss this case for want of jurisdiction, upon the ground that the sum in dispute does not exceed \$2,000.

The case is this: The plaintiff in error is the collector of the port of Baltimore, and, as such, demanded a certain amount of duties on goods imported by the defendants in error, which they believed was greater than the amount imposed by law.