that purpose. And in the class of cases above mentioned, in which affidavits are received, there is no instance in which a case has been postponed or reinstated, in order to give the party time to produce affidavits of value. Indeed, such a practice would be irregular and inconvenient, and might sometimes produce conflicting affidavits, and bring on a controversy about value, occupying as much of the time of the court as the merits of the case.

And if this case were one of those in which affidavits could be received, they come too late after the case has been heard and dismissed for want of jurisdiction. But it is not a case of that description. The value of the lots about to be sold for corporation taxes was involved directly in the dispute. Their value is stated in the bill, and the amount of taxes imposed upon them, in order to show that the overcharge made by the corporation was unreasonable and oppressive; and their value is stated by the complainant to be "*over* $500"—the sum mentioned being only one-fourth of the amount required to give jurisdiction to this court; and where the value is stated in the pleadings or proceedings of the court below, affidavits here have never been received to vary it or enhance it, in order to give jurisdiction. And the affidavit now offered could not have been received, even if filed before the argument of the case.

The motion to reinstate is therefore overruled.

JAMES D. PORTER ET AL., PLAINTIFFS IN ERROR, *v.* BUSHROD W. FOLEY.

This court has already decided at the present term (see page 195 of this volume) that a writ of error made returnable on the third Monday in January, and the defendant in error cited to appear on that day, is irregular, and must be dismissed.

A motion to remand the case to the court below, with leave to amend the writ of error and citation, cannot be granted. But if the plaintiff in error desires it, he may, in order to save expense, withdraw the transcript, and use it in connection with the proper and legal process to bring the case here.

THIS case was brought up from the Court of Appeals of

Kentucky by a writ of error issued under the 25th section of the judiciary act.

A motion was made to dismiss the writ, upon the ground stated in the opinion of the court.

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

The writ of error in this case was issued on the 27th day of December last, and made returnable on the third Monday in January, and the defendant in error cited to appear on that day.

It has already been decided at the present term, in the case of Insurance Co. of the Valley of Virginia *v.* Mordecai, that such a writ of error cannot be supported, and does not bring the case before the court.

A motion has been made, on behalf of the plaintiff in error, to remand the case to the court below, with leave to amend the writ of error and citation. But, as the transcript stands, there is no case before us in which we can exercise a power of amendment. We can do nothing more than dismiss it for want of jurisdiction.

But if the plaintiff desires it, he may, in order to save expense, withdraw the transcript, and use it in connection with the proper and legal process to bring the case here; and if withdrawn, a receipt for it must be left with the clerk.

But as it now stands, it must be dismissed for want of jurisdiction.

FRANCIS MARTIN, ADMINISTRATOR OF DENNIS T. DONOVAN, DECEASED, PLAINTIFF IN ERROR, *v.* CHRISTIAN IMHSEN.

In Pennsylvania, where a transfer of certain accounts was made, the assignee had only an equitable interest, and could not sue in his own name. But when the suit was brought in Louisiana, where there is no distinction between a legal and equitable title, he could maintain the suit in his own name, and the assignment was good evidence.

An exception taken to the refusal of a judge to sign a bill of exceptions, under the circumstances of this case, requires no further notice.