to the rate fixed by law, and is required to collect the same, and certifies to the counties and municipal bodies the several amounts due to them respectively for taxes thereon, to be collected by them on their own account in the mode specified by law.

The board of assessors appointed by the governor are charged, under the revenue laws of the state, with the duty of valuing all railroad property; and moreover, for purposes of taxation, in making their valuation they are required to look to the capital stock, the corporate property, the franchises of each company, as well as the gross receipts, and the individual stock of each shareholder. Knowledge in these particulars is derived from a schedule required to be furnished to them by each railroad company, and by their own personal inspection, and by any other proof they may deem necessary; but all proof taken by them must be reduced to writing, and must be under oath and subscribed by the witnesses, with notice to the company interested, and the right and opportunity to appear, cross-examine, and be heard. Having ascertained the character and total value of all the property, wherever situated, of any railroad company, excluding what is known as localized property, taxable in the county and municipality where it is situated, the board of assessors are required to divide the same by the number of miles in the entire length of the road, and the result is the value per mile of the property of such company for the purpose of taxation. The value per mile thus ascertained shall be multiplied by the number of miles in the state, and the product thereof shall be the sum to be taxed to the railroad company for state purposes; and the value per mile as thus ascertained shall be multiplied by the number of miles in each county, and the product shall be the sum to be taxed for county purposes; and the value per mile so ascertained shall be multiplied by the number of miles, or fractions thereof, in any corporated town, and the product shall be the sum to be taxed for municipal purposes; and these several sums to be taxed, thus ascertained, they shall certify to the comptroller, together with the facts and all evidence taken by them. This record the comptroller is required to submit at once to the governor, treasurer, and secretary of state, who are constituted a board of examiners. They are to examine the questions of assessment and valuation, as upon an appeal upon the record made up by the railroad tax assessors, as a matter of course, whether the tax-payer except or not, and they may change it in any particular, and to any extent they see fit, so as to fix the real value of any railroad. The law provides for no time nor place of meeting of the board of examiners, for no notice to the tax-payer or the public, and for no hearing before them. They take no additional proofs, but act exclusively upon the record of the board of assessors, and their action in fixing the taxable value of every railroad is declared to be final and conclusive; and until they act the findings of the board of assessors have no legal effect as assessments.

A board of assessors appointed for the purpose of valuing railroad property for assessment and taxation for the years 1883 and 1884, reported the value of the main stem of the Louisville & Nashville Railroad, extending from Louisville, Kentucky, to Nashville, Tennessee, at $34,927.29½ per mile; and that of its Nashville & Decatur Division, extending from Nashville, Tennessee, to Decatur, in Alabama, leased from other companies, and operated by it, at $19,002.59¼ per mile. The same board at the same time valued the main stem of the East Tennessee, Virginia & Georgia Railroad at $20,005 per mile, a branch called the Ooltewah Cut-off, at $15,000 per mile, the Alabama Division, so called, of the same company, at $16,000 per mile, and its North Carolina Division at $11,500 per mile. After these assessments had passed to the hands of the board of examiners, and after two of them had affirmed the action of the board of assessors, and while the third was preparing a dissenting report, writs of *certiorari* and *supersedeas* issued out of the circuit court of the state for Davidson county, on the petition of the railroad companies interested, were served upon them, and came by a process of appeal in error from that court to the supreme court of the state. The opinion and judgment of that court in the case are reported under the name of *Louisville & N. R. Co.* v. *Bate*, 12 Lea, 573.

It appears from that report that the grounds laid in the petition for the writs were, substantially, (1) non-compliance on the part of the board of assessors with section 4 of the act of 1877, which required all proof taken by them to be reduced to writing, under oath, upon notice to the parties interested, and opportunity to be present and cross-examine witnesses; (2) that in the mode of estimating values there were various errors of law. Motions were made to dismiss these writs on the ground of want of jurisdiction in the court; the thirteenth section of the act of 1877 declaring "that the action of the board of examiners, provided for by the sixth section of the act of March 20, 1875, shall be final and conclusive as to the value of a railroad." The motions to dismiss, however, were overruled, and the jurisdiction of the court sustained. The judgment of the court on the point was based upon the tenth section of the sixth article of the state constitution, which provides that "the judges or justices of inferior courts of law and equity shall have power, in civil cases, to issue writs of *certiorari* to remove any cause, or the transcript of the record thereof, from any inferior jurisdiction into such court of law, on sufficient cause, supported by oath or affirmation;" and upon section 3123 of the Code of Tennessee, in execution of this constitutional clause, that "the writ of *certiorari* may be granted whenever authorized by law, and also in all cases where an inferior tribunal, board, or other officer exercising judicial functions has exceeded the jurisdiction conferred, or is acting illegally, where, in the judgment of the court, there is no other plain, speedy, or adequate remedy." In delivering the opinion of the court, TURNEY, J., said:

"In *Wade* v. *Murry*, 2 Sneed, 56, Judge McKINNEY, delivering the opinion of a majority of the court, says: 'In a case involving a question as to the legal competency of the judge, or showing such a substantial departure from the course of proceeding prescribed in the statute as would render the proceedings void, the *certiorari* would be the proper remedy.' I am of opinion, with Judge TOTTEN, that the revisory jurisdiction extends to any question of error or illegality in the proceedings which has the effect to prejudice the rights of a party. I also think the legislature has no power to say that any citizen shall be deprived of the right to have all questions touching his life, liberty, or property heard, passed upon, and determined by the regular and constitutional courts of the state. Such right is inalienable. It is unnecessary, in the present case, to go beyond the majority opinion in *Wade* v. *Murry*."

Proceeding to consider the case upon its merits, the opinion continues:

"Although the boards may be officers of the state, and proposing to discharge their duties as such, yet, if they overleap the prescribed limits of the law under which they act, it is the right of those about to be injured to ask for, and the duty of the courts to grant, a restraining relief. We think the petitioners make *prima facie* cases for relief. What are the facts? Did the boards exceed their authority? As we have seen, the act requires all the proof to be reduced to writing, sworn to and subscribed, etc., and upon this proof the boards to act in fixing their valuations for taxation. An examination of the record shows the values fixed by the board in excess of that shown by the proof. We cannot supply this defect by presuming the officers did their whole duty. We presume they have, as they are required to do, returned to the proper deposits all the proof upon which they acted. The statute confers extraordinary power, and is in derogation of common right, and must be strictly construed and observed. When called upon, as here, the boards must show they have kept to the statute. This is not alone in the matter of proof in most of the cases before [us.] Nor does it appear that the parties had notice of the taking of the depositions—or some of them, at least—which appear in the record. It may be the assessors based their estimates of value upon their personal knowledge formed from inspection and examination. This they might have done, but like all other testimony it should have been reduced to writing, and an opportunity to cross-examine allowed to the parties in interest."

For these reasons, in those cases, including those of the present complainants, in which proper and timely exceptions were made to the action of the board of assessors before them, their proceedings and valuation were set aside. The reversal was thus limited because, as the court said, "we cannot hold the assessors have erred upon a question not submitted to them, especially when the exceptions substantially waive it." The court also passed upon other objections taken to the proceedings of the assessors, as follows: That the main stem of the road was valued separately from branches and leased lines operated by the same company, holding that as to such they must be governed by the same rules as were the original owners, and as separate roads; that the road-bed, franchise, and superstructure were assessed together as a unit, which was held to be proper; that the rolling stock and other distributable property, defined by the statute to consist of road-bed, rolling stock, franchise, choses in action, and personal property having no actual *situs*, and which it declares

shall be valued by the assessors separate from the other property of the company, and the total value ascertained wheresoever situated, whether within or without the state, was valued in the aggregate as a unit, which was also declared to be according to the intention of the law; and that the exemption of $1,000 allowed by the statute was deducted only from the value of the main stem, and not from that of the branches and leased lines, which was also upheld. These valuations having been thus set aside, a new proceeding before the board of assessors became necessary. This took place, the place of one member who had resigned being filled by a new appointment.

In June, 1884, the board of assessors reported a new valuation as follows: Of the main stem of the Louisville & Nashville Railroad, $50,000 per mile; of the Decatur Division, $25,191.03½ per mile,—being an increase in the former of over $15,000 per mile, or over 40 per cent., and of the latter an increase of over $6,000 per mile, or over 30 per cent.; of the main stem of the East Tennessee, Virginia & Georgia Railroad, $24,000 per mile; of the North Carolina Branch of the same, $10,000 per mile; of the Ooltewah Branch or Cut-off, $16,000 per mile. It is alleged in the present bills that the board of assessors, in making this last valuation, had before them in proof substantially the same state of facts as was before the former board on which the first valuation was made which was set aside on *certiorari;* that the present board, in making their valuation, disregarded the evidence, acted arbitrarily, and not in good faith, for the purposes of a fair and just valuation, but to oppress and punish complainants; that the valuation is excessive, whether it is considered in reference to the intrinsic value of the property itself or compared with other railroad property in the state or elsewhere in the United States, or with the value at which the real estate and other property of individual tax-payers is assessed by the assessors charged with that duty, for purposes of taxation, it being charged in regard to them that they systematically and intentionally have made such valuation at much less than the fair actual value of such property; that deductions permitted to other tax-payers are denied to them; that the property of the complainants is assessed for taxation for the year 1884 upon an amount and value as of 1883, although all other property in the state is assessed upon an annual valuation; and that the assessors have included in the property valued large amounts of property which, although belonging to complainants respectively, have no taxable *situs* in the state of Tennessee.

It is further alleged that the values set forth by the complainants respectively in the schedules submitted by them are the full and fair values of all the property owned by them, situated within the state and subject to taxation therein, and they are severally willing to pay the taxes chargeable thereon, and offer so to do. It is further charged in these bills as follows:

(1) That the proceedings to be taken in reference to these valua-