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Habeas Corpus—U.S. Circuit Judges Have No Power to Issue—Cannot be Used as Writ of Error

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The same objections are urged against the validity of this law as are urged against the Washington Alien Land Law.

According to the terms of the California statute, the prohibited class is made up of aliens who are not eligible for citizenship, while in *Terrace v. Thompson*, supra, the prohibited class is made up of aliens who have not made a declaration in good faith to become citizens. The latter class includes not only ineligible aliens, but also all eligible aliens who have not made a bona fide declaration for citizenship.

The court held that in the matter of classification, States have wide discretion, since each has its own problems based upon conditions existing there. Accordingly, it was held that the failure of the California legislature to extend the prohibited class to eligible aliens who have failed to declare their intention to become citizens was not unreasonable or arbitrary.

HABEAS CORPUS—U. S. CIRCUIT JUDGES HAVE NO POWER TO ISSUE—CANNOT BE USED AS WRIT OF ERROR.

Craig v. Hecht, U. S. Sup. Adv. Ops. Dec. 15, 1923:

Writ of certiorari to United States Circuit Court of Appeals, second circuit, to review a decree reversing an order of a United States Circuit Judge, at chambers; directing the discharge of Charles Craig, Comptroller of New York City, who had been committed to custody for contempt of court. The alleged contempt was the writing and publishing a letter to a Public Service Commissioner, wherein Craig assailed the United States District Judge because of certain action taken in receivership proceedings then pending.

The United States District Attorney filed an information charging Craig with criminal contempt under Sec. 268 of the Judicial Code. Upon hearing the matter, the District Court (Judge Mayer) sentenced Craig to jail for sixty days and committed him to the custody of the United States Marshal. Without making any effort to appeal, Craig presented a petition for a writ of habeas corpus and final discharge to "Martin T. Manton, Circuit Judge of the United States," who had been assigned to hold the district court. Upon hearing, Judge Manton held that the district court had "exceeded its jurisdiction by an excess of power in adjudging Craig guilty," and ordered him discharged.

From that ruling Circuit Judge Hough allowed an appeal to the United States Circuit Court of Appeals, which held that circuit judges, as such, are without power to grant writs of habeas corpus, and therefore treated the cause as determined by the district court to which Judge Manton had been assigned. It held further that as habeas corpus proceedings cannot be used as a writ of error, but must be limited to jurisdictional questions, the sole question before Judge Manton was as to the jurisdiction of the district court in the original proceeding, and concluded that the district court (Judge Mayer) had jurisdiction of both offense and person, and reversed the order of discharge.

The Supreme Court affirmed the judgment of the Court of Appeals on all points.