lease for longer periods without the approval of the Secretary of the Interior; and any lease not permitted by the restrictions was to be absolutely void. The allottee made leases of his lands, without approval of the Secretary of the Interior, to take effect six months later, at the expiration of an existing lease. A State statute required leases of Indian land made invalid by act of Congress, to be treated as tenancies at will for purpose of determining compensation which an allottee could recover from the lessee for use of the land.

Held, the leases made by Bunch to take effect in the future were absolutely void under the act of Congress, and that the State statute giving to them the effect of tenancies at will was invalid because in conflict with the act of Congress.

CONSTITUTIONAL LAW—STATUTE DENYING ALIEN RIGHT TO OWN LAND DOES NOT DEPRIVE HIM OF PROPERTY WITHOUT DUE PROCESS OR DENY EQUAL PROTECTION OF THE LAWS.

Terrace v. Thompson (U. S. Sup.), Adv. Ops. Dec. 1, 1923, p. 35:

This suit is brought against the attorney-general of the State of Washington to enjoin him from enforcing the anti-alien land law of that State. By the terms of that law, aliens who have not made a bona fide declaration of an intention to become citizens of the United States are not permitted to own or lease land for agricultural purposes, and citizens of the United States who knowingly make conveyances or leases to such aliens are deemed guilty of a high misdemeanor.

It is alleged that the statute is in conflict with the due process and equal protection clauses of the 14th Amendment, and with the treaty between the United States and Japan (37 Stat. at L. 1504). The court held:

That the 14th Amendment does not take from the States the right to make police regulations, and that a State may make reasonable classification of citizens and aliens for the purpose of legislation.

That each State has, in the absence of a treaty provision to the contrary, power to deny aliens the right to own land within its borders.

That State legislation applying alike and equally to all aliens, withholding from them such a right, does not amount to an arbitrary deprivation of liberty or property without due process of law.

That the classification of the statute, allowing aliens who have declared an intention to become citizens the right to hold land, and denying such right to those aliens who have not made such declaration does not violate the constitutional provision guaranteeing equal protection of the laws.

That no right to own or lease agricultural land is conferred by a treaty that the subject may lease land for residential or commercial purposes.

Porterfield v. Webb (U. S. Sup.), Adv. Ops. Dec. 1, 1923:

Suit against the attorney-general of the State of California to enjoin the enforcement of the Alien Land Law of that State.

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.