

be no appeal on questions of fact, would, perhaps, afford the proper remedy.

Viewing this question as I do, and believing the right of appeal to be absolute, and that I have no discretion in the matter, I allow the appeal, and shall fix the bail-bond at \$2,000, with a bond of \$300 to cover costs.

In the *Case of Ty Moy*, on appeal, which is an application of a similar character, the appeal will be allowed, and the same bonds fixed.

On the day following the allowance of the appeal, the attorneys of the parties being present, the circuit judge made the following additional observations:

I desire to add some observations to what I said on yesterday in this case. In allowing the appeal, the opinion was expressed that there ought to be no appeal on a question of fact. It has since occurred to me that, in view of the object and policy of the law, perhaps it might be held, without a very greatly overstrained construction of the statute, that the appeal only lies upon questions of law. Undoubtedly the principal object of the statute is to procure an authoritative construction of the constitution, law, or treaty under which the question arises, and thereby protect the legal rights of the petitioner; and, if I could see my way clear, I should limit appeals to cases presenting questions of law only. But, as was stated yesterday, the language of the statute is very broad and comprehensive. Combining the two provisions of the statute into one, it reads: "From a final decision of such circuit court, an appeal may be taken to the supreme court," "in the case of any person alleged to be restrained of his liberty in violation of the constitution, or of any law or treaty of the United States." This is "a case" in which such restraint is alleged; and the statute does not, in terms, nor by plain inference, limit the appeal to the legal points involved in "the case." The law points in this case, had they been reached, under the settled decisions, so far as the courts of this circuit can settle them, would have been decided in favor of petitioners. It was held in *Look Tin Sing's Case*, 21 FED. REP. 905, Mr. Justice FIELD delivering the opinion, and three other judges concurring, that a child born in the United States, of Mongolian parents, residing at the time in the country, is a citizen, and entitled to enter the United States as such, irrespective of the restriction act. But this case was determined upon a mere question of fact *whether the petitioners were born in the United States*. This question on the construction of the statute as to a right of appeal on a mere question of fact was not suggested, nor did it occur to me under the broad language of the statute, before allowing the appeal. It may be that the supreme court may feel justified in limiting the ap-

peal to questions of law. I suggest the point, without expressing a decided opinion as to how it should be ultimately decided; but, for the purposes of this case, rule against it. It is a point, at least, that the government, which has intervened, is entitled to have considered and determined by the supreme court; and the public interests require that it should be so determined. Should the appeal be thus limited, it would obviate, to a great extent, if not wholly, the great inconvenience now apprehended from the act.

The allowing of this appeal will enable the supreme court to authoritatively determine the point at an early day, as the attorney general, at the opening of the next term of court, in October, can move to dismiss the appeal, on the ground that an appeal does not lie, under the act, upon a mere question of fact; the law applicable to the facts, assuming the petitioners to have been born in the United States, having been already settled in their favor. I suggest this course, and, on an intimation from the United States attorney that this suggestion will be promptly acted upon, I shall suspend final action on any other application for an appeal on questions of fact till an opportunity is had to obtain a decision of the supreme court on the point suggested. It is expected, however, that prompt action will be taken.

SEARON *v.* HILL.

(*Circuit Court, D. California.* August 5, 1885.)

[In the matter of the report of the examiner in chancery in relation to proceeding on the examination of witnesses, August 3, 1885.]

1. CRIMINAL JURISDICTION OF UNITED STATES COURTS—PUBLIC BUILDINGS.

A United States court has exclusive jurisdiction of offenses committed in places in California purchased by the United States, with the consent of the state legislature, for the erection of a custom-house and other necessary public buildings, and so used.

2. CONTEMPT—DRAWING DEADLY WEAPON AT EXAMINATION OF WITNESSES BEFORE EXAMINER IN CHANCERY.

Drawing a pistol and threatening the life of counsel during the examination of witnesses before an examiner in chancery, appointed by a circuit court in a suit pending therein, in judge's chambers, in a building on land under the exclusive jurisdiction of the United States, is a contempt of court, and punishable as such, and also an offense against the statutes of the United States, and punishable by indictment or information.

3. SAME—PUNISHMENT AS CONTEMPT.

When no special end in the administration of justice would be accomplished by proceeding summarily on process for contempt, the court may waive such process and leave the United States to proceed to punish the offense under the statute.

4. SAME—COUNSEL CARRYING WEAPONS INTO COURT.

A member of the bar, who appears in court armed with a deadly weapon, is not only guilty of a contempt of court, but also of professional misconduct, and should be suspended or disbarred.