

**Porterfield Vs. Webb**

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**Court :** US Supreme Court

**Decided On :** Nov-12-1923

**Appeal No. :** 263 U.S. 225

**Appellant :** Porterfield

**Respondent :** Webb

**Judgement :**

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U.S. Supreme Court Porterfield v. Webb, 263 U.S. 225 (1923)

**Porterfield v. Webb**

**No. 28**

**Argued April 23, 24, 1923**

**Decided November 12, 1923**

**263 U.S. 225**

*APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES*

*FOR THE SOUTHERN DISTRICT OF CALIFORNIA*

## SYLLABUS

1. The treaty of February 21, 1911, 37 Stat. 1504, between the United States and Japan does not confer upon Japanese subjects the privilege of acquiring or leasing land for agricultural purposes. P. [263 U. S. 232](#) . *Terrace v. Thompson*, ante, [263 U. S. 197](#) .

2. The California Alien Land Law, by permitting aliens eligible to citizenship under the laws of the United States to acquire, possess, enjoy, and transfer real property in the state, while permitting other aliens to exercise these rights only as prescribed by existing treaty between the United States and their respective countries, does not violate the equal protection clause of the Fourteenth Amendment, as applied to ineligible aliens who have not such rights by treaty, or to citizens desirous of letting their land to such aliens. P. [263 U. S. 232](#) . *Terrace v. Thompson*, ante, [263 U. S. 197](#) .

279 F. 114 affirmed.

Appeal from an order of the district court denying a motion for a temporary injunction, in a suit brought by appellants to enjoin appellees from enforcing the California Alien Land Law.

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MR. JUSTICE BUTLER delivered the opinion of the Court.

Appellants brought this suit to enjoin the above-named Attorney General and district attorney from enforcing the California Alien Land Law, submitted by the initiative and approved by the electors November 2, 1920. [Stats. 1921, p. lxxxiii.]

Appellants are residents of California. Porterfield is a citizen of the United States and of California. Mizuno was born in Japan of Japanese parents, and is a subject of the Emperor of Japan. Porterfield is the owner of a farm in Los Angeles County containing 80 acres of land which is particularly adapted to raising vegetables, and which for some years has been devoted to that and other agricultural purposes.

The complaint alleges that Mizuno is a capable farmer and a desirable person to become a tenant of the land, and that Porterfield desires to lease the land to him for a term of five years, and that he desires to accept the lease, and that the lease would be made but for the act complained of, and it is alleged that the appellees, as Attorney General and district attorney, have threatened to enforce the act against the appellants if they enter into such lease, and will forfeit, or attempt to forfeit, the leasehold interest to the state, and will prosecute the appellants criminally for violation of the act. It is further alleged that the act is so drastic, and the penalties attached to a violation of it are so great, that neither of the appellants may make the lease even for the purpose of testing the constitutionality of the act, and that, unless the court shall determine its validity in this suit, appellants will be compelled to submit to it, whether valid or invalid, and thereby will be deprived of

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their property without due process of law and denied equal protection of the laws.

Appellants made a motion for a temporary injunction to restrain appellees, during the pendency of the suit, from bringing or permitting to be brought any proceeding for the purpose of enforcing the act against the appellants. This was heard by three judges, as provided in 266 of the Judicial Code. The motion was denied.

The act provides in 1 and 2 as follows:

"Section 1. All aliens eligible to citizenship under the laws of the United States may acquire, possess, enjoy, transmit, and inherit real property, or any interest therein, in this state in the same manner and to the same extent as citizens of the United States, except as otherwise provided by the laws of this state."

"Sec. 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy, and transfer real property, or any interest therein, in this state in the manner and to the extent and for the purpose prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise."

Other sections provide penalties by escheat and imprisonment for violation of 2.

The treaty between the United States and Japan (37 Stat. 1504-1509) does not confer upon Japanese subjects the privilege of acquiring or leasing land for agricultural purposes. *Terrace v. Thompson, ante*, p. [263 U. S. 197](#) .

Appellants contend that the law denies to ineligible aliens equal protection of the laws secured by the Fourteenth Amendment because it forbids them to lease land in the state although the right to do so is conferred upon all other aliens. They also contend that the act is unconstitutional because it deprives Porterfield of the right to enter into contracts for the leasing of his realty, and

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deprives Mizuno of his liberty and property by debarring him from entering into a contract for the purpose of earning a livelihood in a lawful occupation.

This case is similar to *Terrace v. Thompson, supra*. In that case, the grounds upon which the Washington Alien Land Law was attacked included those on which the California act is assailed in this case. There, the prohibited class was made up of aliens who had not in good faith declared intention to become citizens. The class necessarily includes all ineligible aliens, and in addition thereto all eligible aliens who have failed so to declare. In the case now before us, the prohibited class includes ineligible aliens only. In the matter of classification, the states have wide discretion. Each has its own problems, depending on circumstances existing there. It is not always practical or desirable that legislation shall be the same in different states. We cannot say that the failure of the California Legislature to extend the prohibited class so as to include eligible aliens who have failed to declare their intention to become citizens of the United States was arbitrary or unreasonable. See *Miller v. Wilson*, [236 U. S. 373](#) , [236 U. S. 383](#) , and cases cited.

Our decision in *Terrace v. Thompson, supra*, controls the decision of all questions raised here.

*The order of the district court is affirmed.*

MR. JUSTICE Mc REYNOLDS and MR. JUSTICE BRANDEIS think there is no justiciable question involved, and that the case should have been dismissed on that ground.

MR. JUSTICE SUTHERLAND took no part in the consideration or decision of this case.

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