ALIEN LAND LAW VALID

CALIFORNIA ACT UPHELD BY FEDERAL COURT.

Three Judges Follow Decision in Terrace Case, Holding Lease to Japanese Illegal.

By Associated Press.

SAN FRANCISCO, Tuesday, Dec. 20.—The constitutionality of the California antialien land law, forbidding aliens ineligible to citizenship from owning or leasing agricultural land was upheld yesterday by a court of three federal judges.

Several other states have enacted laws patterned on the California act. The decision written by District Judge Maurice T. Dooling of San Francisco and concurred in by Circuit Judge William H. Hunt of San Francisco and District Judge Benjamin F. Bledsoe of Los Angeles, arose out of the leasing feature of the act.

The court refused to restrain Attorney-General U. S. Webb and District Attorney Woolwine of Los Angeles County from proceeding against W. L. Porterfield and Y. Mizuno for entering into a five-year lease contract on eighty acres of land in Los Angeles County.

No Conflict With Treaty.

"Such a leasehold is an interest in agricultural land and nothing in the treaty with Japan secures to Japanese subjects resident in this country the right to possess, acquire or enjoy agricultural land or an interest therein," the decision said. The decision said, in part:

"It will readily be seen that the act itself violates no treaty provision because Section 2 thereof expressly protects aliens not eligible to citizenship in their relation to real property to the extent and for the purpose prescribed by any treaty between the United States and their own country, so that whatever is guaranteed by such treaty is excluded from the operation of this act. The leasehold interest intended to be conveyed by Porterfield to Mizuno is an interest in agricultural land and there is nothing in the treaty with Japan that secures to Japanese subjects resident in this country the right to acquire, possess or enjoy agricultural land or any interests therein.

"It is true that Congress has the power arbitrarily to say who may be naturalized and that exercising such power it has limited the right of naturalization to 'aliens being free white persons and to aliens of African nativity and to persons of African descent.' This limitation excludes three of the five great races of the world, the Yellow, the Brown and the Red. And while such exclusion is in a sense arbitrary, it is not without foundation in reason and has been in effect except for a brief period practically during the existence of our government.

Terrace Case Cited.

"In any event, once established, however arbitrarily and so long as it continues, it furnishes a fundamental and important distinction which may well be adopted by a state in determining who may not own land within its borders.

"That fact was clearly recognized by the court and given expression in the Terrace case in the following language:

"'It is obvious that one who is not a citizen and cannot become one lacks an interest in, and the power to effectually work for the welfare of the state and so lacking, the state may rightfully deny him the right to own and lease real estate within its boundaries. If one incapable of citizenship may own or lease real estate, it is within the realm of possibility that every foot of land within the state might pass to the ownership or possession of noncitizens. Such a result would leave the foundation of the state but a pale shadow and the structure erected thereon but a tower of Babel from which the tenants in possession might, when the shock of war came, bow themselves out because they were not bound as citizens to defend the house in which they lodged.'

"The constitutional, statutory and treaty provisions involved in this act were considered at length by Circuit Judge W. B. Gilbert and District Judges Cushman and Neterer in the recent case of Terrace, upon an application for a temporary injunction to restrain the attorney-general of the state of Washington from enforcing a statute of the same general character as the law of California now under consideration.

Follows Washington Decision.

"The plaintiffs in that case advanced, urged and argued practically the same contentions that are made by plaintiffs here, all of which were rejected by the court. As we fully agree with the reasoning and conclusions of the Terrace case it is unnecessary for us to restate them or to go over them in detail. It is urged, however, that this case differs from the Terrace case in that the Washington law excludes only such aliens as are ineligible to citizenship and that the designation of this limited class is arbitrary, unreasonable, unwarranted and therefore invalid.

"Or as stated by counsel, the Legislature cannot take what might be termed a natural class of persons (i. e. aliens), split that class in two and then arbitrarily designate the dissevered fragments of the original unit as two classes; and thereupon enact rules for the government of each. As a means of fact, however, the Washington law does split up the natural class of persons (aliens) into aliens who have and aliens who have not declared their intention to become citizens of the United States and enacted different rules for the government for each in that the former may and the latter may not own land."

A suit to determine whether crop contracts constitute leases forbidden by the antialien law is still pending before a Federal Court of three judges here.