

Opinion of the Court.

of classification. Whether this was the best that could have been done is not for us to decide. Our province is only to determine whether it could be done at all, and under any circumstances. If it could, the legislature must decide for itself, subject to no control from us, whether the common good requires that it should be done." 94 U. S. 163, 164.

Judgment affirmed.

BONAHAN *v.* NEBRASKA.

ERROR TO THE SUPREME COURT OF THE STATE OF NEBRASKA.

No. 501. Submitted October 11, 1887.—Decided October 17, 1887.

A person convicted of crime in the court below having sued out a writ of error which was docketed here, and having escaped from the jurisdiction of the court below, this court declines to hear the case, and orders it removed from the docket unless the plaintiff in error comes within the jurisdiction of the court below on or before the last day of this term.

THE case is stated in the opinion.

Mr. Charles O. Wheedon and *Mr. C. E. Magoon* for plaintiff in error.

Mr. William Leese for defendant in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

It appearing that during the pendency of this writ the plaintiff in error has escaped, and is not now within the control of the court below, either actually, by being in custody, or constructively, by being out on bail, it is ordered that the submission of the cause be set aside and that unless the plaintiff in error is brought or comes within the jurisdiction and under the control of the court below on or before the last day of this term the cause be thereafter left off the docket until directions to the contrary. *Smith v. United States*, 94 U. S. 97.