was it lawful to vacate the sentence if in excess of the law; if that sentence should be vacated, was it lawful, under the facts of the case, to impose another sentence which should be in accord with the statute; did all these things present a case for the exercise of power, by virtue of the jurisdiction over the subject-matter? The court, we have seen, had the jurisdiction last-named; did it not also have jurisdiction to adjudicate upon that state of facts? If it did have it, and did adjudicate erroneously, was it not a judicial error, to be relieved from by such writ as would bring it up for review, rather than a wrong done personally to be answered for in a civil action? Is not the person who filled the office of judge, and by his presence on the bench, made that court, free from liability for that adjudication, though the act done by him was erroneous and unauthorized by law?

It was held by this court in *Roderigas* v. *East River Savings Bank*, 63 N. Y. 460, that where general jurisdiction is given to a court of any subject, and that jurisdiction in any particular case depends upon facts which must be brought before that court for its determination upon the evidence, and where it is required to act upon such evidence, its decision upon the question of jurisdiction is conclusive until reversed, so far as to protect its officers and all other innocent persons who act upon it. How does it differ when general jurisdiction is thus given, and depends upon the legal conclusion from a conceded state of facts, and when the court is required to act thereon and draw a conclusion therefrom? Is not the adjudication of that court conclusive until reversed, so as to protect? Is not the act of adjudication, and the judgment given thereon, an act done with jurisdiction, hence, a judicial act; an act done as a judge, or as a court? In *Howell's case*, *supra*, there was no disputed question of fact. It was upon a conceded state of facts that he acted. He erred in his judgment of the effect in law of those facts, yet it was deemed a judicial error.

It is true that the United States Supreme Court, upon a certain state of facts before it, and in a proceeding by *certiorari*, to which this defendant was not a party, and in which he was not heard by that court, reached the conclusion that the second sentence of the Circuit Court was pronounced without authority, and discharged the plaintiff from his imprisonment thereunder. *Ex parte Lange*, *supra*. In the prevailing opinion given in the case are repeated expressions to the effect that the power of the Circuit Court to punish, further than the first sentence, was gone; that its power to punish for that offence was at an end when the first sentence was inflicted and the plaintiff had paid the $200 and lain in prison five days; that its power was exhausted; that its further exercise was prohibited; that the power to render any further judgment did not exist; that its authority was ended.

It is claimed from these expressions that the force of the decision in that case is, that the defendant in pronouncing the second sentence upon the plaintiff did not act as a judge. It is plausible to say, that if an act sought to be defended as a judicial act has been pronounced without authority and void, it could not have been done judicially. But we have yet to learn that the eminent court which used that language in adjudging upon the case made upon that writ would hold that the defendant did not act as a judge in pronouncing the judgment, which was deemed without power to sustain it. The opinion also says: "A judgment may be erroneous and not void, and it may be erroneous *because* it is void. The distinctions between void and voidable judgments are very nice, and they may fall under the one class or the other, *as they are regarded for different purposes.*" We do not think that learned court would disregard the reasoning of *Howell's case*, *supra*, and others like unto it. Yet in *Bushell's case*, *supra*, he was discharged on *habeas corpus*, on the ground that Howell, as judge, had no power or authority to fine or imprison him for the cause set up; it was called "a wrongful commitment;" 1 Mod. 184; as contrasted with "an erroneous judgment; 12 Mod. 381, 392; and yet, when *Howell* was called to answer in a civil action for the act, it was held that, though without authority, it was judicial. In *Bushell's case*, 1 Mod. 119, Hale, C. J., said: "The *habeas corpus* and the writ of error, though it doth make the judgment void, doth not make the awarding of the process void to that purpose," *i. e.*, of an action against the judge; "and the matter was done in a court of justice," he continued. So is the comment upon that case, *Yates* v. *Lansing*, 5 Johns. *290; "it had the jurisdiction of the