nale.[1351] But the modern status of the writ of *habeas corpus* may be said to have been started in its development in *Frank v. Mangum*,[1352] in which the Court reviewed on *habeas* a murder conviction in a trial in which there was substantial evidence of mob domination of the judicial process. This issue had been considered and rejected by the state appeals court. The Supreme Court indicated that, though it might initially have had jurisdiction, the trial court could have lost it if mob domination rendered the proceedings lacking in due process.

Further, in order to determine if there had been a denial of due process, a *habeas* court should examine the totality of the process, including the appellate proceedings. Because Frank's claim of mob domination was reviewed fully and rejected by the state appellate court, he had been afforded an adequate corrective process for any denial of rights, and his custody did not violate the Constitution. Then, eight years later, in *Moore v. Dempsey*,[1353] involving another conviction in a trial in which the court was alleged to have been influenced by a mob and in which the state appellate court had heard and rejected Moore's contentions, the Court directed that the federal district judge himself determine the merits of the petitioner's allegations.

Moreover, the Court shortly abandoned its emphasis upon want of jurisdiction and held that the writ was available to consider constitutional claims as well as questions of jurisdiction.[1354] The landmark case was *Brown v. Allen*,[1355] in which the Court laid down

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[1351] *Ex parte* Wilson, 114 U.S. 417 (1885); *In re* Nielsen, 131 U.S. 176 (1889); *In re* Snow, 120 U.S. 274 (1887); *but see Ex parte* Parks, 93 U.S. 18 (1876); *Ex parte* Bigelow, 113 U.S. 328 (1885). It is possible that the Court expanded the office of the writ because its reviewing power over federal convictions was closely limited. F. Frankfurter & J. Landis, supra. Once such review was granted, the Court began to restrict the use of the writ. *E.g.*, Glasgow v. Moyer, 225 U.S. 420 (1912); *In re* Lincoln, 202 U.S. 178 (1906); *In re* Morgan, 203 U.S. 96 (1906).

[1352] 237 U.S. 309 (1915).

[1353] 261 U.S. 86 (1923).

[1354] Walker v. Johnston, 312 U.S. 275 (1941). *See also* Johnson v. Zerbst, 304 U.S. 458 (1938); Walker v. Johnston, 312 U.S. 275 (1941). The way one reads the history of the developments is inevitably a product of the philosophy one brings to the subject. In addition to the recitations cited in other notes, *compare* Wright v. West, 505 U.S. 277, 285–87 & n.3 (1992) (Justice Thomas for a plurality of the Court), *with* id. at 297–301 (Justice O'Connor concurring).

[1355] 344 U.S. 443 (1953). *Brown* is commonly thought to rest on the assumption that federal constitutional rights cannot be adequately protected only by direct Supreme Court review of state court judgments but that independent review, on *habeas*, must rest with federal judges. It is, of course, true that *Brown* coincided with the extension of most of the Bill of Rights to the states by way of incorporation and expansive interpretation of federal constitutional rights; previously, there was not a substantial corpus of federal rights to protect through *habeas*. *See* Wright v. West, 505 U.S. 277, 297–99 (1992) (Justice O'Connor concurring). In Fay v. Noia, 372 U.S. 391 (1963), Justice Brennan, for the Court, and Justice Harlan, in dissent, engaged