

Mr. SPOONER. Yes.

Mr. CULLOM. None whatever. There is a system of courts there.

Mr. SPOONER. That is peculiar, is it not?

Mr. CULLOM. It is peculiar to that country. It does not exist in our Territories, either in Arizona or anywhere else. There we have an appeal. But the theory of this bill is that they have a supreme court, a circuit court, and other inferior courts, and there are appeals from one to another of the territorial courts, and those judges, either of the circuit or supreme court, have nothing to do with decisions on other statutes than those local to the islands. They exist just as in a State.

Mr. SPOONER. The trouble is Hawaii is not a State.

Mr. CULLOM. No; it is not a State.

Mr. SPOONER. They have in the Territories, of course, the nisi prius judges in the courts, and then they have a supreme court, but there is in certain cases an appeal to the Supreme Court of the United States.

Mr. CULLOM. Yes.

Mr. SPOONER. In capital cases. For instance, a man is tried for a capital crime, and he believes that errors have intervened in the trial, or that he has been deprived of some rights under the Constitution, and he has a right to appeal. Why should not that right be given as to this Territory as well as to all the rest of the Territories?

Mr. CULLOM. Possibly it ought to be; but still there is a government which has existed with this system of courts for very many years, and so far as anybody knows justice has been meted out to the people in civil suits as well as in criminal proceedings.

Mr. SPOONER. The same thing may be said of some of our own Territories.

Mr. CULLOM. Possibly it may; but why is it necessary to provide for an appeal to the Supreme Court or a circuit court of the United States when there is a system there which already provides for appeals from one court to another and which seems to be satisfactory? The commission thought that all that was necessary was to maintain the condition as it exists there, it being thoroughly established and satisfactory to the people.

Mr. SPOONER. It seems to me, if the Senator will permit me to make the observation, that the difficulty is we are dealing with this as a Territory and at the same time as an independent government.

Mr. CULLOM. That is true, in a sense. Yet is there any reason in the Constitution why we should not have a system of courts in Hawaii just as there now exists?

Mr. SPOONER. Is there any reason in the Constitution why we should have a right of appeal from the courts in our Territories?

Mr. CULLOM. I do not know whether it is needed or not, but there is a system, and the people are familiar with it. They have been living under it for years and years, and they understand it, and it seems to answer all their purposes. Now, why upset that and establish a new system when that is entirely satisfactory to the people?

Mr. SPOONER. My suggestion does not contemplate upsetting it, but simply giving in the case of Hawaii as in other Territories the right of appeal in certain cases to the Supreme Court of the United States.

Mr. CULLOM. If it is the desire of the Senator to add that, I have no objection; but I do not think we ought to incur any additional expense unless it is necessary to good government.

Mr. TILLMAN. Will the Senator permit me to interrupt him again, to remark right here that so long as Hawaii was an independent government of course it was not going to appeal to any other jurisdiction, but now that those islands have become a Territory of this country, it does seem to me a remarkable proposition that their laws were so perfect and are so perfect now and their administration is so just and righteous that we would deny even our own citizens who go there the right to appeal to our court of last resort here?

Mr. CULLOM. When our citizens go there and identify themselves with that country they do not want any, so far as I know. They are very happy as they are, with their present system of courts.

Mr. TILLMAN. That must certainly be the garden of the gods. If it is such a happy place, we ought to emigrate there.

Mr. CULLOM. Let the Senator go there and see if they do not convert him to that system.

I am not going to take up the time of the Senate much longer. The fact is it is pretty difficult to speak here at all with any continuity of thought. I have been disposed to yield to everyone, because I want to bring out as a matter of fact whatever objections there are to the bill, so that we may know how to deal with it.

Mr. President, I believe an amendment is pending here to be offered, the purpose of which is to delay the extension of our customs laws over the Territory to some future time, and in meantime allow the present relation as to customs laws, treaties, and regulations to remain as they are. I am opposed to any such

amendment to the bill. There has existed substantial free trade between the United States and the Hawaiian Islands for several years. The great product raised in the islands is sugar and has been for many years. Common sugar comes to the United States free under the reciprocity treaty.

There seems to me to be no reason for delaying the extension of our customs laws over the islands, the States making nothing by such a policy, but, as I believe, will lose; and besides, I am unable to sympathize with a policy of government that reaches out to annex new territory and when it is obtained to adopt a policy detrimental to the territory acquired, lest some interest in some of the States may be in some way affected by treating such territory as we deal with our Territories nearer to us. This Territory occupies a different relation to the United States from any of the acquired territory as the result of war. We may be said to have claimed it for fifty years. The people of the islands who have made the islands prosperous and happy are Americans and as intelligent and patriotic as can be found in any portion of this Union, and let us not deal with them as though they were vassals or unworthy of our confidence.

Mr. VEST. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Missouri?

Mr. CULLOM. Certainly.

Mr. VEST. Before taking up the question of customs and treaties, which will certainly give rise to much debate, I wish to ask the Senator from Illinois in charge of the bill to explain to me the provision on page 20 as to appropriations. It is a very important question. As I understand the provision, if the legislature of the Hawaiian Islands fail to provide the necessary sums to carry on the government and adjourn, the governor can call them in extra session. So far that is the ordinary course. There is nothing remarkable about it.

Mr. CULLOM. No.

Mr. VEST. But in the meantime, before the next legislature meets in extra session or the same legislature, the treasurer, with the advice of the governor, can proceed to expend the money in the treasury on the basis of the preceding year's appropriation.

Mr. SPOONER. It is declared to be reenacted.

Mr. VEST. Yes; for that purpose. I have never seen any such provision as that, and it seems to me it is liable to very serious objection, because there may be very large appropriations during one year which are not necessary in the next year.

Mr. CULLOM. That provision, as the Senator will observe, can only be brought into requisition after the governor, as I remember, has actually reconvened or made proclamation reconvening the legislature, and only for the time, after there is exhausted the appropriation which was made by a previous legislature, until a new legislature or the same legislature can make an appropriation. It is an unusual provision, I admit.

Mr. VEST. There can be no question of exhaustion about it, because it goes on specifically to provide that the treasurer shall advance the money—that is, take it out of the treasury—on the basis of the preceding year's appropriation, and expend it.

Now, the objectionable feature of it, as I was going to say, is to having this extraordinary power, which ought to be exercised alone by the legislature, vested in the treasurer, with the advice of the governor.

Mr. CULLOM. That power is in their constitution now, and it was insisted upon by the commissioners from Hawaii and finally yielded on the part of the commissioners from this side. It has been guarded as well as we could do, so that it will only be used when the governor convenes the legislature and until they can come together and make an appropriation.

Mr. PLATT of Connecticut. But it is until the legislature shall have acted?

Mr. CULLOM. Of course.

Mr. PLATT of Connecticut. If they never act, the treasurer will go on and expend the money.

Mr. CULLOM. Yes; the government has to live in some way.

Mr. VEST. I am not indulging in hypercriticism; I think this is a very good bill, but I do not see how this is practicable. I do not see how the treasurer can take appropriations which were necessary and right for one year as the basis for his expenditure when the legislature has failed to make appropriations for another year. That is the trouble. I never saw any such provision.

Mr. MORGAN. We do it all the time here with permanent appropriations.

Mr. VEST. Yes; but the amount is fixed, and we continue it.

Mr. MORGAN. It is fixed and continued by this proposed act.

Mr. CULLOM. Usually by joint resolution we extend the appropriations from month to month.

Mr. VEST. That is the ordinary provision.

Mr. CULLOM. We in that way extend the appropriations heretofore made.

Mr. VEST. That is the ordinary practice in Congress. It is entirely different from this.