

That thing was undertaken a little while ago practically and substantially in one of our own Territories, the Territory of Arizona.

Mr. WOLCOTT. Did the governor of Arizona have power to remove at will?

Mr. PLATT of Connecticut. He thought he had. He raised the question. I do not know how it came out. But there was a controversy there, a serious controversy, growing out of his attempt to remove immediately after the adjournment of the legislature.

By this means a governor, acting within his authority, could substantially evade the provision requiring these appointments to be approved by the senate.

Performances of like character under the monarchy are too fresh in the minds of the Hawaiian community to permit them to contemplate without dismay the possibility of a repetition thereof.

The governor, under the provisions of the act recommended by the commission, will have less check to his administration of affairs than was the case with the sovereigns under the monarchy, excepting only in the matter of tenure of office. Moreover, the features of the existing Hawaiian civil system, which compel a certain amount of publicity in all administrative acts, are swept away, and the governor may act in absolute secrecy, or, if he shall be so inclined, with the advice and under the influence of any persons he may choose to admit to his deliberations.

This feature of the proposed executive status, it will be seen, might expose the governor to influences hostile to the public good, and possibly to great and constantly recurring temptations to subordinate public to private interests.

The provision of the Hawaiian system which compels the president to consult his constitutional advisers lessens this danger.

Besides, this beneficial result of the existing system is the safeguard that it guarantees to the administration of public affairs through the diminished liability of the best of men to make mistakes when assisted by the judgment of others.

So President Dole himself, with all his desire to perpetuate American government in those islands, thought this bill went very much too far.

Now, my amendment does not correct the bill in many of the respects of which he spoke, but I do insist that as to the judges who are to have final jurisdiction in those islands and from whose decisions there is to be no appeal, either to the Supreme Court of the United States or to the circuit court of appeals in the United States, should not be put beyond the power of the President of the United States to appoint or remove. Their terms ought to be like the terms of all other judges in all our Territories—for four years. That is a wise provision, and, as I said, it is wiser in my judgment for Hawaii than it has been for the other Territories which we have heretofore created.

Mr. CLARK of Wyoming. I simply wish to ask the Senator from Connecticut if it would not be well to add to his amendment, by striking out the last four lines of the section which present difficulties of construction?

Mr. PLATT of Connecticut. I intended to do that. The last three lines.

Mr. CLARK of Wyoming. Yes; the last three lines.

Mr. PLATT of Connecticut. Lines 13, 14, and 15, on page 37.

Mr. TELLER. I should like to have the amendment stated.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 81, page 35, line 22, after the word "the," it is proposed to strike out the word "governor" and insert the word "President;" after the word "senate," in line 23, to strike out "of the Territory of Hawaii;" after the word "courts," in line 25, to insert a semicolon and insert "and the governor shall nominate and, by the advice and consent of the senate of the Territory of Hawaii, appoint;" in line 11, page 36, after the word "may," to insert "by and with the advice and consent of the senate of the Territory of Hawaii;" in line 16, on the same page, after the word "remove," to strike out all down to and including the word "and," in line 20; and to strike out, on page 37, the three lines beginning with the thirteenth, as follows:

Except the chief justice and associate justices of the supreme court and the judges of the circuit courts, who shall continue in office until their respective offices become vacant.

Mr. MORGAN. What is the amendment on page 36?

The SECRETARY. In line 11, page 36, after the word "may," it is proposed to insert "by and with the advice and consent of the senate of the Territory of Hawaii," and, on the same page, line 16, after the word "removed," to strike out "except the chief justice and justices of the supreme court, who shall hold their offices during good behavior, and the judges of the circuit courts, whose terms of office shall be six years, and."

Mr. TELLER. I want to say to the Senator from Illinois that those of us who sit in the rear can not understand what the amendments are. Will the Senator tell us about this one?

Mr. CULLOM. As I understand the amendment and the explanation of his purpose by the Senator from Connecticut himself, the substance of what he is trying to accomplish is to secure the appointment of the supreme and circuit judges by the President of the United States.

Mr. PLATT of Connecticut. And a term of office of four years.

Mr. CULLOM. And a term of office of four years. I refer to the Territorial judges, not the United States judge whom we are undertaking to create.

I do not know that it is a matter of very great consequence whether those judges are appointed by the governor or by the President of the United States; but as we are dealing with a settled community, a state, a government, full of people, so far as it has gone—not a great number there yet—but there has been a government established for a great many years; they have their system of courts, they have their system of law, they have their construction of statutes by their supreme court and circuit courts, and they are familiar with them, and they felt entirely satisfied with the system they have, and it seemed to the commission and afterwards to the committee that the less we interfered with them the better it was for the people there as well as for the United States generally.

Now, we have had a good deal of talk here from time to time about what is to be done with these islands we have acquired either by cession, by annexation, regularly, or irregularly, as some thought at the time, it not being by treaty but by act of Congress, and others as the result of the war in which we have been engaged; and everybody in the Senate and other places, apparently, seemed to be alarmed for fear that we would take them in and make them a part of the United States, and put our laws over them, and all that sort of thing. We, as a commission, in the first place felt and believed that we were coming nearer to recognizing the ideas of the people of the United States in letting that government alone so far as we could at all consistently with the laws of the United States and the Constitution of the United States, and not interfering with anything there that it did not seem absolutely necessary to interfere with.

So we found the supreme court there doing business with just as much dignity, with just as much sense of honor and of duty, and apparently with just as much intelligence as the supreme court of the State of Illinois or of Connecticut, or of any other State. There was nothing in the establishment there in any way that the commission could see would justify us in uprooting the supreme court or the circuit courts of the islands and requiring the Government of the United States to meddle with them. So it was the conclusion of the commission and of the committee that as far as that was concerned we ought to leave that alone at present.

The Senator from Connecticut seems to go upon the idea that we are making a constitution for those people that can never be repealed. If we find that this plan does not work right, if we find that the judges of those courts are not doing their duty, or the governor does not do his, we can modify this law next year, or any other time in the future. Our whole purpose, so far as the Government of the United States is concerned, it seems to me, should be to give the people of those islands a start under some sort of law made by the United States, an organic act, and let them continue in the regular line of duty as they have been going on heretofore.

But while everybody has seemed to want us to let them alone, when we come to try to let them alone everybody seems to object to it. That seems to be the situation here, and there is no reason, in my judgment, in anything existing or in any fear that may be anticipated why we should overturn that court now and say to the President of the United States, "You appoint all these judges," lest they do something wrong between now and next year or five years from now that ought not to be allowed to be done.

Mr. TELLER. May I ask the Senator from Illinois a question?

Mr. CULLOM. Certainly.

Mr. TELLER. Is not that exactly what you do? You overturn the court when you authorize the governor to appoint.

Mr. CULLOM. No; we do not in the full sense, because the purpose of the bill is not to turn these men out until their terms expire.

Mr. TELLER. You assume that the governor will reappoint the present judges?

Mr. CULLOM. There will be only two to be appointed, so far as the supreme court is concerned, because the chief justice has resigned since this bill has been reported to the Senate.

Mr. TELLER. Does the bill legislate the present judges in office?

Mr. CULLOM. It lets them stay there. That is all. It does not legislate them out.

It seems to me, Mr. President, that apparently the fear is overruling, especially in the mind of my friend the Senator from Connecticut, that something is going to be done over there, within a month perhaps after this proposed law shall be passed, that will be thoroughly in conflict with the laws and Constitution of the United States, if we allow the governor to appoint. Let me say to the Senator that the governor can be removed by the President if he does anything wrong. If he fails to do his duty the President can call him down or nominate and appoint somebody else. It seems to me there is no great need or occasion for alarm if the plan shall stand substantially as the commission and the committee report it. I think myself that the provision is a little mixed as to a strict construction of what it means. I am willing that