of Thirty Years in the United States Senate as to the origin of the doctrine that the Constitution extends to newly acquired territory or vigo, I need not, I am sure, make any answer to the charge of that one authority. Surely it is sufficient, especially after the encomium he has spoken upon Mr. Benton, for me to say that according to the authority of Mr. Benton the doctrine that the Constitution extended this vigo to newly acquired territory was not an ancient doctrine, but a new invention of 1850 to meet the exigencies of the slave interest at that time.

They wanted the Constitution extended to the Territories in order that slavery might be there recognized according to the Constitution and be permitted under it; and when, in the course of the agitation of that question, it was brought forward that that doctrine was of no more vigor than did Mr. Benton himself. Mr. Benton tells us that this was the beginning of that doctrine, that such was its purpose, and that it was but a vagary of a diseased mind. This authority is sufficient, and I shall treat it as conclusive until Mr. Benton has been overthrown. Until the time that Mr. Benton speaks the Constitution had never been extended in a single instance by Congressional action beyond the limitations of the Union itself. The Territory in every instance had been governed directly by laws as Congress might see fit to enact, or authorize a local legislature to enact.

It was done by the Constitution, Congress compromised by extending the Ordinance of 1787, extending it without any limitation at all, in all its provisions, as to the Territory that was designed to come in as free States, and extending it as to the Territory in the South that it was designed to put under the word "Territory" by what was called the Missouri Compromise. I do not refer to any of my articles, which prohibited slavery. The Ordinance of 1787 and not the Constitution was thus extended to Mississippi and Alabama and became a part of the Territory organic law, of all that Territory.

So, Mr. President, I say there is nothing new either in the denunciation that is indulged in here in the present resolution which we rely upon the legislation that is now being proposed. There is an abundant precedent for both. Having said that much, I want now to turn to the bill we have under consideration, and speak very briefly as to the proposition embodied therein, to which objection has been made, providing for the admission of New Mexico.

We had some of that sort of a question a few days ago. There were some inaccuracies of statement in that debate. They are to be excused by reason of the fact that the debate was unexpectedly precipitated and no one had had an opportunity, except only those Senators who perhaps were contemplating bringing it up, to make any investigation. I recall one inaccuracy of the sort for the act of 1789, the judicial act. No courts were created by that act except only what are called constitutional courts. When, therefore, in legislating for the district of Orleans, as it was called, the Congress saw fit to provide that there should be a district court, a district judge with life tenure, and a circuit court for the Kentucky district, they were making a constitutional court in the sense that they were at least making precisely the same kind of a court in point of jurisdiction and tenure as they had a right to make in the exercise of their power to create a constitutional court under the judicial article of the Constitution.

In pursuance of that act a judge was appointed, and it was put into operation, and pretty soon a case arose that found its way to the Supreme Court of the United States—the case of Seré and Laralde vs. Pitot and others, reported in 6 Cranch, page 332. The decision was announced by Chief Justice Marshall. The question in the case was as to the jurisdiction of the United States, and Chief Justice Marshall had the right to invoke its jurisdiction. It was an action by the assignee of a choice in action. Chief Justice Marshall commenced by saying:

This suit was brought in the court of the United States for the Orleans Territory.

Then he proceeds to dispose of the case. That is all I care to read from that decision. I read enough, however, to show, in view of what I already stated, that Congress not only made a United States court with life tenure and constitutional jurisdiction, but that such court was recognized by Chief Justice Marshall as a United States court in contradistinction to the term "Territorial" or "legislative" court.

In the case of McAllister (141 U.S. Reports), referred to in debate a few days ago—cited, I believe, by the Senator from Connecticut [Mr. PLATT]—the only case in which the jurisdiction of the court in the Territories had been given United States jurisdiction by Congress, was a United States court within the meaning of the tenure of office act, and the court there, after a very lengthy review of all the decisions, held that while it was not a United States court; that only those courts could properly be held to be United States courts in the sense in which that term is ordinarily employed. That decision was undoubtedly correct.

Now, Mr. President, the point I wish to make with respect to this is, taking that definition of a United States court, and adopting the definition of Chief Justice Marshall in the case to which I have referred, and from which I have quoted, it certainly does not appear that we had a United States court, a constitutional court, if you please, in the Territory of Orleans, outside the States, and therefore that we have approved precedent for the creation of such a court in a Territory and consequently not within a State of the Union.

But it does not matter in such a case whether you call it a "constitutional court" or a "Territorial court." It is a court created by Congress, as all courts must be; and it is given all the constitutional jurisdiction and the jurisdiction of the court of the Territories, and it is not within the States, and it is a court created by Congress, proceeding under the judicial article of the Constitution rather than under the provision authorizing it to legislate for the Territories. But however that may be, it will remain that Congress has plenary power to create in a Territory such courts as it sees fit, and give the judge such tenure as it may see fit. This power is not exceeded by what is here proposed. So that if there is any valid objection to section 88 of the bill it must be solely on the ground of policy.

The Senator from Alabama [Mr. MORGAN] made it clear, in his most admirable presentation of this matter this afternoon, that we ought to have in the Hawaiian Islands a Federal court, with a life tenure, and all the jurisdiction that can be given it under the Constitution; for it is, has been said, a court that must have, in the most serious and vital admiralty and a very extended jurisdiction of almost every character to make it proper for us to distinguish it from a purely local court.

There are a great many other things which I should be glad to say in regard to this matter before taking the seat, but the whole day has been spent in this debate, it is now very late, and I do not wish to detain the Senate.

Mr. CULLOM. I rise to move that the Senate adjourn, but before making that motion, I desire to say to the Senators who are here that I am very anxious to get along with this bill as rapidly as possible, because I see in it a provision that requires that some legislative body must have that so that they can protect themselves from plagues and diseases and be able to live at all. With this remark, and with the understanding that we are to meet to-morrow, I move that the Senate adjourn.

Mr. MORGAN. I ask the Senator to withdraw the motion for a moment.

Mr. CULLOM. I withdraw it for a moment in order to suggest that we agree to vote on the bill to-morrow at 4 o'clock.

Mr. MORGAN. On the bill and amendments?

Mr. CULLOM. Yes. I hope the Senate will agree to that.

Mr. BATE. The Senator from Illinois asks unanimous consent that the Hawaiian bill and the pending amendments may be voted upon to-morrow at 4 o'clock. Is there objection?

Mr. TELLER. I shall have to object, Mr. President.

Mr. CULLOM. Then I move that the Senate adjourn.

Mr. BATE. I move that the Senate adjourn until Monday.

Mr. CULLOM. I hope that will not be done.

Mr. BATE. I think it was the expectation of many Senators that an adjournment over would be had.

Mr. CULLOM. I am sure it was not expected by the Senate. I do not think anyone has been justified in entertaining any such expectation.

Mr. BATE. I do not wish to make the motion if a session is desired to-morrow.

Mr. CULLOM. I very much desire a session for the consideration of Hawaiian bill to-morrow.

Mr. BATE. Very well; I withdraw my motion.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 24, 1900, at 12 o'clock m.