courts can not exercise the functions that are committed to the judges of the district courts and the circuit courts of the United States. I do not know that as an original principle of government I would hold office by a life tenure. There are some very strong objections to that. At the same time, the whole federal judicial system of the United States is proper based upon that idea, and associated with that is the power of appointment and the power of removal. I believe that in the case of the president there is a power of removal and substitutes for it the power of impeachment. There is not an election held under the laws of the United States anywhere for an office of the United States proper. He can enable men in the way of office, but not to officers. It follows from that they are officers of the Government of the United States by any means. It would be a queer idea if we should undertake to impeach by a man by a proceeding in the House of Representatives and a trial in the Senate whom the President of the United States is the head of. I represent a feature of the elective system under the Constitution of the United States in respect of supplying the Federal Government with Federal officers. The officers of the body or of the other House are not Federal officers. They are State officers accredited to the Federal Government under the provisions of the Constitution of the United States.

When the Government of the United States set up that system of appointments to office and fixed the tenure of the judges of the Supreme Court, the circuit courts, the courts of appeal, and all inferior jurisdictions that are not expressly recognized for the Constitution, is improving good behavior, there was a great reason for it, and that reason exists as strongly to-day as it has ever been. There is no movement in this country for the purpose of having the judges of the Supreme Court or of the district or circuit courts elected by the people or of having their tenure abbreviated. There is no movement to change the Constitution in that particular, and I think a movement of that kind would find very little support amongst the people of the United States.

But the objection to the eighty-eight section of this bill is based upon the ground that it is in the interest of the people to have a man who holds a district judgeship in Alabama as it is in the Territory, for he belongs to the same jurisdiction and executes the same powers of the Federal Government. If Hawaii should ever be admitted as a State into this country, it is possible that there may be created, called district judges or whatever name you please to give to them, must fall. They will go by the board whenever the State is admitted into the Union, for the reason that the Constitution itself, operating of its own vigor, carries the Federal system in the same way, under the law, the office that was created legislatively and for the purpose of serving a Territory necessarily falls on the admission of the State into the Union.

I think it has been a great misfortune that we have undertaken herefore to restrict the appointment of the judges of the different Territories of this country. As I observed on yesterday, it has a direct effect upon the independence of the judiciary. A judge who is elected by the people in a State or in a Territory feels his responsibility directly to those people, and it is a very proper thing for them to elect their judiciary, and for short terms, whether it is a valuable system or not. Men are found of sufficient character, of sufficient honesty and integrity, to overcome the temptations of such a position. I will admit that in the Territories it is not as we would have it. In the case of the Supreme Court of the United States, that is elected by the people, I think that the system has worked very well. But we have been very happy in finding a number of men upon the bench who are above the temptation to yield to popular influence or popular power. At the same time there was a judge of the supreme court of the Territory who was considered a very good man. If I were a silver man. Of course, I was for him. Mr. President, but I was not for him because he was a silver man. I was for him because he was a very excellent man, a very great man. Nevertheless, the influence pervades political parties, and that is the reason the Federal system is not now in the Territories. The President of the United States never fails to do that. Whether the President is a Democrat or a Republican, the judges in the Territories are Democrats or Republicans, and there is an effort made to get the best man who can be found in a certain party, but very few ever think of going to the opposing party to get a better man than you can find in your own party.

That was my objection, Mr. President, to a good deal of what we are doing here on this subject of appointing judges. I did not want the judge of the supreme court of the Territory to be put into the hands of the President of the United States, because I knew that that office and all the other offices that were to be filled by the President and subject to his removal would at once become political offices. No man would think of going down to the Executive Mansion here to apply for a position in Hawaii after this act is passed, unless he was a well-established Republican. A Demo- crat has no chance. The bill as we have got it now legislates out of office in Hawaii every Democrat who has got an aspiration to any such place, and I believe that that is one of the leading purposes of this change. I believe that Senators on this floor are determined that this political corruption shall be given to the judicial establishments in Hawaii as well as other establishments. The object is to get the control of the patronage, to use it for the purposes of power. Well, I oppose that.

I am willing enough to have it in all the Executive Departments, because we have got to have it there. We cannot make the world exactly right and exactly clean in one half hour. I am willing, or at least I consent to it, as to the Executive Departments; but when you come to the judicial establishment, Mr. President, I say it is a very dangerous practice to put the disposal of the lives and the property of the liberties of the inhabitants of Hawaii in the hands of one man because he happens to be a Republican or happens to be a Democrat, when there is another man in an opposing party better qualified and whom the people have a more earnest wish that he should keep the office.

Mr. PLATT of Connecticut. Will the Senator from Alabama yield?

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Connecticut?

Mr. MORGAN. Certainly.

Mr. PLATT of Connecticut. I should like to suggest an amendment to the amendment, which I think is unnecessary, but which I think would meet the criticism which the Senator is making. It is in line 12 of the amendment, after the word circuit court, to insert a comma instead of a period and the words and said judge shall have and exercise the powers conferred by the laws of the United States upon the judges of district and circuit courts of the United States.

I do not think it is necessary, but it can do no harm.

Mr. TELLER. I will accept that modification.

Mr. MORGAN. Now, that brings the constitutional question squarely up. Please read it again.

Mr. PLATT of Connecticut. The Secretary has it.

The SECRETARY. After the words circuit court, in line 12 of the amendment, add the following:

And said judge shall have and exercise all the powers conferred by the laws of the United States upon the judges of district and circuit courts of the United States.

Mr. MORGAN. That amendment, Mr. President, plainly violates the Constitution of the United States. The Senators have admitted that it is necessary to the completion of their amendment. If this amendment is adopted, you are putting the court on one wheel. You are exercising the judicial functions that a man as a judge may perform there on the bench and you take away from him those functions that he may perform in chambers. The amendment is all right except it is constitutional, and it makes the whole provision unconstitutional for this reason.

Mr. PLATT of Connecticut. Mr. President—Mr. MORGAN. If you will allow me a second—I make it unconstitutional for this reason, that in our effort to confer upon the Federal courts in Hawaii the same jurisdiction that the Federal courts have in the United States, we are attempting to confer upon him the power to sit in a court in California. You cannot do it, because no man can sit in a district court or circuit court of the United States in California unless he is qualified for that place and appointed under the Constitution of the United States, and there is no pretense that this is under the Constitution of the United States. I yield to the Senator from Connecticut.

Mr. PLATT of Connecticut. I do not think the amendment is necessary, but I thought it would meet the criticism which the Senator from Alabama was making, and therefore I was quite willing to offer it. I think it is true that the Territorial judges, as they are called, the judges of Territorial courts, when United States have been established, under the same authority, without any special authority, exercised the powers and functions of judges of the district court. Senators who have lived in Territories know better than 1, but I think that is true.

Mr. MORGAN. Well, Mr. President, if this amendment be made, Mr. President, I think it would be unconstitutional, since it was amended, includes the powers of a judge of a district or circuit court of the United States within its purview it is evidently unconstitutional, for it undertakes to confer upon a legislative judge those powers which belong under the Constitution, and can only be conferred by the Constitution, to a judge appointed by the President of the United States in virtue of the Constitution as a Federal judge. Now, here is an appellate court in the District of Columbia—

Mr. CLARK of Wyoming. Will the Senator yield to me?