

who for a number of years have wisely administered them, are fully competent to continue their administration. I believe that the land laws of Hawaii to-day are in many respects better laws, taking into consideration the conditions there, than the land laws of the United States are, taking into consideration the conditions here. The result of this proviso will simply be to refer to some clerk in the office of the Attorney-General here questions arising under the Hawaiian land laws. It will cause delays. It is not in the interest of the man who is seeking a home on public land in Hawaii.

This provision is not in the interest of the homesteader. It will give employment to a number of land attorneys here, and will simply tend to delay the settlement of land questions, and make it more difficult for the small holder, for the homesteader, for the man acquiring land under the land laws there, to have his matters settled promptly and without considerable cost to him. I believe this proviso should be stricken out, and I believe that Hawaiians should be left to administer their land laws in the future as they have in the past.

Mr. LANE. Mr. Chairman, this matter was discussed before the committee, and was specially brought to the committee's attention by the appearance before the committee of certain parties from Hawaii, who made the claim that the land laws as operated there were not satisfactory to the people who wanted small holdings, but were satisfactory to the people who wanted large holdings: and it was the object and intention of the committee in making this provision to meet the complaints of those who were here representing the small holders. We thought it was wise to leave the right of appeal to the Secretary of the Interior, and thus protect the small man against the advantages that the rich man and large owner might have down there. It was admitted that it was not possible to extend all our land laws down there, as they are not applicable, and the only objection that was made was delay.

But it does not make any delay, because the sale or lease or transfer stands confirmed unless some affirmative action is taken within sixty days. The committee was unanimous in reporting this measure as a protection to those parties who would want small holdings as against the large sugar interests, and that is the object of this provision. I hope the report of the committee will be sustained in this body.

Mr. ROBINSON of Indiana rose.

Mr. KNOX. Debate has been exhausted.

Mr. ROBINSON of Indiana. I move to strike out the last word.

The CHAIRMAN. That is not in order.

Mr. ROBINSON of Indiana. I ask unanimous consent to proceed for two minutes.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to proceed for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. ROBINSON of Indiana. I trust that this provision reported by the committee, and which cares for the small owners there, may be sustained, and the amendment proposed by the gentleman from Wyoming defeated. This check is a salutary one. I think it will prevent the abuses that might grow out of the conditions of Hawaii, and for that reason I sustain the provision as it is presented by the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SUPERINTENDENT OF PUBLIC WORKS.

SEC. 75. That there shall be a superintendent of public works, who shall have the powers and duties of the superintendent of public works and those of the powers and duties of the minister of the interior which relate to streets and highways, harbor improvements, wharves, landings, waterworks, railways, electric light and power, telephone lines, fences, pounds, brands, weights and measures, fires and fire-proof buildings, explosives, eminent domain, public works, markets, buildings, parks and cemeteries, and other grounds and lands now under the control and management of the minister of the interior, and those of the powers and duties of the minister of finance and collector-general which relate to pilots and harbor masters under the laws of Hawaii, except as changed by this act and subject to modification by the legislature. In said laws the word "legislature" shall be substituted for "councils" and the words "the circuit court" for "the Hawaiian Postal Savings Bank."

Mr. WILLIAMS of Mississippi. I rise in order to ask a question for information. I notice here, in lines 17 and 18 of page 83, these words:

In said laws the word "legislature" shall be substituted for "councils" and the words "the circuit court" for "the Hawaiian Postal Savings Bank."

Did the Hawaiian Postal Savings Bank have any judicial functions of any sort?

Mr. KNOX. I am unable to inform the gentleman. I think not. I think it was simply a proceeding about the deposit of public funds. The bill does away with the postal savings bank. That is entirely done away with in this bill.

Mr. WILLIAMS of Mississippi. I understand that.

Mr. KNOX. I am unable to answer the question directly at this moment, but my recollection is it refers to the deposit of public money.

Mr. WILLIAMS of Mississippi. I asked the question because I thought it a clerical error.

Mr. KNOX. No; it is material. I can get the information in a few minutes. I think it refers to the deposit of public money in the savings bank.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 80. That the governor shall nominate and, by and with the advice and consent of the senate of the Territory of Hawaii, appoint the judges of the circuit courts, the attorney-general, who shall have been for one year actual residents of the Territory of Hawaii, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the senate. He may for cause assigned, be communicated to the senate, remove from office any of such officers except the chief justice and justices of the supreme court and the judges of the circuit courts, who shall be removable by impeachment only. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the chief justice and justices of the supreme court, who shall hold office for nine years, and the judges of the circuit courts, who shall hold office for six years, and except the commissioners of public instruction and the members of said boards, whose terms of office shall be as provided by the laws of the Territory of Hawaii.

Mr. SHAFROTH. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Strike out that part of section 80, on pages 84, 85, and 86, to line 7, inclusive, and insert the following:

"That the President shall nominate and, by and with the advice and consent of the Senate, appoint the chief justice and justices of the supreme court, the judges of the circuit courts, who shall hold their respective offices for the term of four years, unless sooner removed by the President; and the governor shall nominate and, by and with the advice and consent of the senate of the Territory of Hawaii, appoint the attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the senate. He may, by and with the advice and consent of the senate of the Territory of Hawaii, remove from office any of such officers. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the commissioners of public instruction and the members of said boards, whose terms of office shall be as provided by the laws of the Territory of Hawaii.

"The manner of appointment and removal and the tenure of all other officers shall be as provided by law; and the governor may appoint or remove any officer whose appointment or removal is not otherwise provided for.

"The salaries of all officers other than those appointed by the President shall be as provided by the legislature, but those of the chief justice and the justices of the supreme court and judges of the circuit courts shall not be diminished during their term of office."

Mr. SHAFROTH. Mr. Chairman, the amendment which I have offered to this section is the language which has been adopted by the Senate as section 82, and its purposes and objects are three: First, the bill as reported by the House committee provides that the judges of the circuit court shall be appointed by the governor of the Territory. The amendment which I have offered provides that the judges of the circuit court shall be appointed by the President. I wish to submit a reason or two for this change. Under our theory of government the three branches of government—namely, the legislative, executive, and judicial—should be distinct and separate from each other, and one not dependent upon the other any more than is absolutely necessary.

This amendment provides that the judges of the circuit court shall be appointed by the President. The amendment which is offered by the committee provides that the judges of the circuit court shall be appointed by the governor. The governor often has questions coming before the circuit court in which his position and acts must be passed upon, and if the appointing power rests with the governor the inevitable result will be that there will not be preserved that independence which ought to exist in the judiciary. Consequently it seems to me wise and proper that this appointing power should be in the President instead of in the governor of the Territory.

It is often the case that when the judge is an appointee of an officer whose actions may be reviewed the judiciary becomes simply the mouthpiece of the party who appoints him, and inasmuch as no one wants that condition to exist, these circuit court judges ought to be selected and appointed by the President.

The other change I have suggested in this amendment is as to the tenure of office. The amendment offered by the committee provides that the judges of the supreme court of the Territory shall hold office for a period of nine years, and that the judges of the circuit court shall hold office for a period of six years. We have laws concerning the Territory of Arizona, New Mexico, and all other Territories that have been admitted as States into the Union, having a Territorial form of government before admission. We find that the general law is that the tenure of office shall be for a period of four years in each of the instances, and it seems that we ought to have uniformity of laws with respect to the appointment of judicial officers of the Territory of Hawaii.