

Mr. ALLEN. I should like to ask the Senator from Illinois if these are Territorial judges?

Mr. CULLOM. Yes; they are Territorial judges.

Mr. ALLEN. And it is proposed to pay them out of the Treasury of the United States?

Mr. CULLOM. Out of the Treasury of the United States.

Mr. ALLEN. Why should they be paid in that way?

Mr. CULLOM. The original bill, according to the system adopted by the commission and the committee, made them appointive by the governor and paid by the Territory. The Senate, however, on yesterday changed the bill and provided for their appointment by the President of the United States. It would seem that they ought to be paid by the United States, as we pay in that way all of the judges of the present Territories in our own country, I understand.

Mr. ALLEN. The Senator holds to the idea, then, that because it has been done it should be done.

Mr. CULLOM. That is a question for the Senate. It would seem that when the President appoints them, and takes them out of the hands of the Territory entirely, perhaps the Government of the United States ought to pay them.

Mr. ALLEN. With the Senator's permission, I do not think it makes much difference one way or the other, whether we have been paying Territorial judges out of the Treasury of the United States or not, so far as the right or wrong is concerned.

Mr. CULLOM. Will the Senator allow me to say a word in addition to what I have said.

Mr. ALLEN. Yes, sir.

Mr. CULLOM. This bill turns all the money received from customs, internal revenue, post-offices, and all that into the United States Treasury, so that we are taking away a very large share of the income that they received as they have been existing heretofore.

Mr. ALLEN. I suppose the customs duties are to pass into the hands of the Government the same as the customs duties of the United States proper; but as I understand this bill, in the short time I have had to look into it, it preserves the distinction between a Territorial court established under the United States statutes and a Federal court proper—that is, there is a Federal court to be established there in addition to these Territorial judges.

Mr. CULLOM. There is to be one United States judge to administer United States statutes.

Mr. ALLEN. The district judge who will exercise the powers of a circuit judge?

Mr. CULLOM. Yes.

Mr. ALLEN. Probably with powers a little more enlarged than our circuit judges have. Now, I can see no reason why the Government of the United States should pay all these judges and bear the expenses of the judicial department of that Territory. There may be some reason, Mr. President, that I do not understand, but I see no reason except as was suggested by the Senator from Montana a moment ago, that it has been that way heretofore.

Mr. ALLISON. All Territorial judges have always been paid by the Government.

Mr. ALLEN. And I suppose as it has existed heretofore, therefore it should always exist, whether it is right or wrong.

Mr. CLARK of Wyoming. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Wyoming?

Mr. ALLEN. Certainly.

Mr. CLARK of Wyoming. If I may suggest to the Senator one thought, it is that these judicial officers are officers of the United States Government, appointed by the President and confirmed by the Senate, and that appears to me to be a very good reason why they should be paid by the Government of the United States.

Mr. ALLEN. They are officers of the United States Government only in a qualified sense. They are Territorial officers appointed by the President of the United States, and they sustain no different relations to the people of that country than the elective judiciary of the State of Wyoming to the people of that State, except in the method of their appointment, the method of holding their office.

Now, Mr. President, it may be idle for me to argue to the contrary and to contend to the contrary. It may be that this bill will go through without any objection and that this amendment will become a part of the bill. But if that judiciary is calculated, as it is in its nature, to deal with the local affairs of those islands, it is a local judiciary to all intents and purposes, and should be supported by local taxation. There is not the slightest reason why the expense of that judiciary should be borne by the Government of the United States any more than to say that a justice of the peace or any other local officer should be paid by the General Government.

I know there is a good deal of force in precedents, and, Mr. President, whenever a man has no reason to give for the opinion he seeks to enforce he always resorts to precedents.

Mr. CULLOM. If the Senator will allow me, I do not want to

interrupt him any further than to give him in perfect good faith whatever information I can with reference to the matter.

Mr. ALLEN. I have no doubt about that.

Mr. CULLOM. Three supreme judges, so called, one of them a chief justice, existed there under their system of government. They have been paid over there \$6,000 a year each. I do not know but that the chief justice gets a thousand dollars more than the circuit judges. Two of them receive \$4,000, and the others \$3,000 apiece.

Mr. ALLEN. Are the circuit judges ex officio judges of the supreme court?

Mr. CULLOM. No, sir; they are not. It is a different system. We found that system of government there, and we tried to let it alone so far as we could. We provided that when their terms should expire the governor should appoint and that the Territory should pay them. But there seemed to be a disposition to require the President to appoint them, and such an amendment has been adopted. The original bill embodied the idea of a commission, that all the expenses of the Territorial government there should be paid by the Territory itself, including the legislature. I may say in our Territories here, Arizona, New Mexico, and so on, the United States pays the courts and pays the expenses of the legislature as well.

We still require that the Territory shall pay all the expenses of the administration of the government, except these judges appointed by the President of the United States, and, of course, the district judge of the United States, the United States marshal, district attorney, the governor, and secretary of the Territory. All of the rest of the establishment there is to be paid by the Territory. Now, the Senate thought, I think, that in view of the fact that we are taking away from them all their customs and internal-revenue receipts and putting them into the United States Treasury, the people of the Territory will have about as much as they can do to pay the balance.

Mr. SPOONER. Will the Senator from Illinois allow me to interject a word there?

Mr. CULLOM. Yes; two of them.

Mr. SPOONER. We are not only taking away from them certain revenues, but we are imposing our own revenue taxes upon them.

Mr. ALLEN. I do not think there is any misunderstanding about that.

Mr. BACON. Will the Senator from Illinois please state how these salaries compare with the salaries of other Territorial judges?

Mr. CULLOM. They are a little higher than we pay.

Mr. CLARK of Wyoming. Some of them.

Mr. TELLER. Some of them are higher than we pay, and some are the same that our Territorial judges receive.

Mr. CULLOM. I do not know exactly what we pay.

Mr. ALLISON. In Indian Territory we pay \$5,000 a year. To the others we pay \$3,000.

Mr. SPOONER. The statute makes the pay of the others \$3,000.

Mr. CULLOM. But I want to say that the expense of living in those islands is much higher than it is anywhere in the United States; so that, in my judgment, the salaries fixed are as small as they ought to be. I beg pardon for interrupting the Senator.

Mr. ALLEN. Mr. President, when the Senator from Illinois kindly interrupted me I was just in the act of saying that whenever a man wants to fortify a thing which he can not fortify in logic or reason he always resorts to precedents. I have no doubt the man who taught the doctrine that the world was flat and rested upon a serpent invoked that precedent in subsequent discussion.

Now, a precedent has value just as it is based upon reason and principle, and no further. It may be that in interpreting property rights it is sometimes better to stand by a precedent which was wrong in the first instance than to make a change, by reason of the consequences that would follow a change. But that reasoning does not apply to a case of this kind. Here are a distinct people, 2,000 miles from our shores, who have maintained a distinct government in the Sandwich Islands for a great many years. They have had their judiciary; they have had their legislative department; they have had their executive departments. They were brought into this country by an act of Congress annexing them in 1898—leprosy, bubonic fever, and everything that afflicts the country. They are a part and parcel now of the United States, according to modern construction.

Now, we propose to give them not only a Territorial judicial department, but a Federal judicial department distinct from that Territory, which, I submit, is without a precedent. Heretofore the Territorial judges have been ex officio judges of the Federal, and have determined questions arising in their Territories. Now, we propose to give this archipelago some four or five ordinary circuit judges, such as we find in our statutes, and then a district supreme court to which appeals are to be taken, and I presume with a writ of error from that court of appeals to the circuit court