of appeals somewhere or to the Supreme Court. I have not read the bill in that respect. In addition to that, we propose to set up a distinct Federal judiciary, the same there as we have in our States, and all the salaries of these judges are to be paid out of the revenues of the United States Government.

Now, because of the Territories we have paid the salaries of the Territorial judges, in most instances where it would otherwise be to create a greater burden upon the people than they were able to bear, it is invoked as a precedent here that we should follow and the soundness of which no man ought to question.

But, Mr. President, I did not rise to discuss this question. I rose more particularly to suggest to the Senator having this bill in charge, now that it is well along in the evening, to let the measures go over until to-morrow, that we may have an opportunity to examine it more carefully during the night. I want to read it very carefully before voting on it.

Mr. CULLOM. I want to go on until 6 o'clock at any rate.

Mr. ALLEN. I think the bill has been amended so frequently that it ought to be reprinted as amended.

Mr. CULLOM. It has not been nearly perfected as we can make it, and I should be very glad to pass it or have the Senate vote upon it.

Mr. ALLEN. I have just returned to the Senate after an absence of ten days, and I have not had an opportunity to read the bill through. I have run through some of its provisions, and upon their face they seem to be objectionable. When I come to read the bill through consecutively and in order those objections may disappear.

Mr. CULLOM. Well, I should like to go on and see whether there are any other amendments to be made to-night. It is now only 6 o'clock.

Mr. ALLEN. Of course the Senator would not want to conclude the consideration of all amendments to-night, because it might be proper to-morrow to introduce some.

Mr. CULLOM. Of course I am not seeking to do that, but I should like to see whether there are any other amendments to be offered that we have not had an opportunity to act upon.

Mr. ALLEN. For instance, here is the first section to which I called attention some time ago. That seems to be at least ambiguous and rather misleading.

Mr. CULLOM. What section?

Mr. ALLEN. Section 1, defining the laws of Hawaii in this language:

Including regulations having the effect of law and the decisions of the supreme court in force on the 12th day of August, 1898.

No, according to this section, regulations, whether they are public or private customs and usages, shall be recognized as part of the law of those islands, and the decisions of the supreme court are by this section to have the force of statutes. I submit to the Senator from Illinois that when Congress gives to the decisions of the supreme court the force of another statute it takes another statute and it repeals it, and it will not be within the power of the supreme court of that Territory or within the power of the Federal judiciary to annul or set aside the decision. Now, I look upon that as somewhat important.

Mr. MORGAN. Will the Senator from Nebraska allow me to give an explanation?

Mr. ALLEN. I will.

Mr. MORGAN. The Senator is a jurist and just fresh from the bench. It was necessary in order to get full swing of all the laws of Hawaii, whether they were statutes, supreme court decisions, or regulations should be given to them, and therefore the first section provides:

That the phrase "the laws of Hawaii," as used in this act without qualifying words, shall mean the constitution and laws of the republic of Hawaii, including regulations and usages having the effect of law and the decisions of the supreme court in force on the 12th day of August, 1898, immediately prior to the cession of the sovereignty of the Hawaiian Islands to the United States of America.

If the Senator will look at section 6, which is headed "The laws of Hawaii"—that means all the judicial decisions, regulations, and customs—he will find it reads:

That the law the legislature shall enact in conformity with the Constitution or laws of the United States or the provisions of this act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

Then section 7 provides:

That the constitution of the republic of Hawaii and the laws of Hawaii, set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed:

The object was to repeal the decisions of the supreme court, all the regulations, and all the statutes which were in conflict with the Constitution and laws of the United States or in conflict with the provisions of this act.

Mr. ALLEN. If the Senator from Alabama will permit me, what is to be said of the latter part of section 1, which reads:

The constitution and statute laws of the republic of Hawaii then in force, as forth in the act of July 4, 1845, under the authority of the legislature, and published in two volumes entitled "Civil Laws" and "Penal Laws," respectively, and in the Session Laws of the Legislature for the session of 1898, are referred to in this act as "civil laws," "penal laws," and "session laws."

These, I understand, by subsequent provisions of the act, are carried forward.

Mr. MORGAN. No; either carried into force or repealed.

Do not any of the penal statutes, in the codification by Mr. Ballon, many of the laws that are in direct violation of the Constitution and statutes of the United States?

Mr. SPOONER. If so, they are repealed.

Mr. ALLEN. This bill repeals them, then? I did not know that.

Mr. MORGAN. The Senator will find, by consulting the report which accompanies the bill, that each one of those acts has been gone over.

Mr. ALLEN. That is one reason why I want to-night to study this bill.

Mr. CULLOM. I have no objection to allowing the Senator that privilege.

Mr. ALLEN. The first section, I think, with proper deference to the Senator from Alabama, is ambiguous in its words, "including regulations having the effect of law. What are those regulations?

Mr. MORGAN. They are part of the laws of Hawaii.

Mr. ALLEN. But laws are laws.

Mr. MORGAN. But conflicting laws are repealed.

Mr. ALLEN. A law is a law, I think, and it is made by the bench, or it is common law. But what is a regulation? Did the Senator ever hear of the legislative department of a government passing a regulation?

Mr. MORGAN. We have our Treasury regulations. The Treasury regulations are full of them, and so are the other Executive Departments.

Mr. ALLEN. But those are executive.

Mr. MORGAN. And men can be indicted for violating them.

Mr. ALLEN. But those originate in the executive department and are enforced in the legislative department. Therein consists the ambiguity and the danger of this provision. I take it that the executive department, through many of its different subdivisions in the Hawaiian government, has promulgated many regulations, some of which may be in direct violation of their constitution and their statutes, a number of which may perhaps never have received a judicial interpretation at the hands of their own courts, and yet all those regulations, without exception, are carried into force by this bill and given the effect of statutes.

Mr. SPOONER. I agree with the Senator that the bill can not be acted upon to-night, but I want to submit to him that the Hawaiian government was not a government when the act of annexation was passed; the people out there had their own statutes and their own regulations; they had their own customs; and customs sometimes have, of course, the effect of law and are enforced by the people. It is absurd for the United States, or it is not to, supplement by specific regulations in this bill the local laws, the local customs, and the local regulations as to health and otherwise which are in force out there?

What I rose to ask the Senator was this, mainly, whether that is sufficiently guarded by the committee bill by the provision which is embodied in them, that they are not inconsistent with the Constitution and laws of the United States?

Mr. ALLEN. That may be possible. I would not say, because I have not read the bill sufficiently to know all its provisions.

Mr. MORGAN. Perhaps the Senator from Nebraska would permit me to say a word in explanation.

Mr. ALLEN. Yes, sir.

Mr. MORGAN. The Senator will find on examination of the report of the committee, which is part of the bill, that there is the denial of a large number of statutes and the Constitution of Hawaii. Fearing that might not cover everything, that there might be something still left that was in conflict with the Constitution and the laws of the United States and the provisions of this act, this provision was put into the bill by the purpose of defining all the balance, the residuum, that is not specifically repealed in this act, and providing that of that residuum, I will call it, which might have escaped the scrutiny of the committee in remodeling this statute:

Sec. 6. That the laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States.

The laws of Hawaii" become technical terms, which include the existing supreme court and regulations.

Sec. 7. That the constitution of the republic of Hawaii and the laws of Hawaii, set forth in the following acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the following subjects, are hereby repealed by this act:

By these provisions we thought we had covered the ground absolutely.