with the powers with which we have usually clothed a Territorial judge—that is, to do the business of the United States. I am told that there is going to be a large business there in the way of admiralty affairs and some others. The effect of my amendment is that this is a Territorial judge and not an attempt to create a constitutional court.

Mr. CHILTON. Will there be no constitutional judge there at all?

Mr. TELLER. There will be no constitutional judge. This will be clothed with all authority of a constitutional judge, but his time is limited to four years.

Mr. CHILTON. And you confer admiralty jurisdiction on a territorial judge?

Mr. TELLER. That has been done repeatedly. All the authority admiralty jurisdiction. Every jurisdiction that could be conferred on a district judge can be conferred on a legislative judge. That has been repeatedly held by the Supreme Court. Take, for instance, Colorado. Full jurisdiction was conferred upon the Territorial judges there, absolutely, except as to admiralty, there being no judge in this character in Colorado; but they had every other jurisdiction. There was some question as to whether we could legally create a constitutional court out there—there was no question in my mind about it—but we could create a court, and we did create a court with the powers of a constitutional court.

Mr. HOAR. Do I understand that in substance and principle— I shall not go into details—this judge is like the judge of the supreme court of a Territory?

Mr. TELLER. Practically.

Mr. BACON. In listening to the amendment I was unable to decide that. I should like the Senator to state what is the line of demarcation between the jurisdiction of the court provided for in another portion of the bill and this particular court.

Mr. TELLER. The other judges, the five or six circuit judges scattered around, will not have charge of infractions of the laws. What would be called national questions will come to this court.

Mr. BACON. What court will have charge of local questions?

Mr. TELLER. Local questions are left to the other courts. In the Territories every judge exercises some degree of judicial power; but, in my judgment, it is wise to confer that power on these judges. There must be, however, some judge there to exercise it, and therefore he is provided for in this way. I believe it will be satisfactory to the people out there and accomplish everything the commission desire.

Mr. ALLEN. Mr. President, I regret to say that I do not think the amendment proposed by the Senator from Colorado [Mr. TELLER] will remove the objection to this part of the bill. This seems to be exceptional in our legislation. Heretofore we have been contented with permitting territorial judges to exercise extra-territorial jurisdiction, and the Federal judge or a Federal court properly.

The Senator from Colorado says that he is now satisfied that the number of judges is not too great in consequence of the islands being somewhat scattered; but I fail to observe any provision in the bill which requires those judges to come from any inhabited island or to reside on any particular island during their term of service. They can all be appointed from the city of Honolulu and reside there.

Mr. CULLOM. Will the Senator allow me?

The PRESIDING OFFICER (Mr. PERKINS in the chair). Does the Senator from Nebraska yield?

Mr. ALLEN. I do.

Mr. CULLOM. The local statute of the Territory creates courts for the circuit judges, and each of them holds his court in his particular jurisdiction, as is provided, and those laws are preserved.

Mr. PLATT of Connecticut. If the Senator will permit me, this provision is in the laws of Hawaii:

Every judge of the circuit court shall reside in the circuit for which he is appointed.

Mr. ALLEN. Yes.

Mr. HOAR. This provision is not so drawn as to cover that.

Mr. CULLOM. The supreme court sits in the capital of the island, and, of course, appeals are taken to the court there, and disposed of by the supreme court.

Mr. ALLEN. I do not want to begin his case in the Federal court before the judge provided for in the amendment of the Senator from Colorado, it would not make any difference in what island he lived, he would have to go to Honolulu for the trial of that case.

Mr. CULLOM. I think the bill provides for the holding of court at two different places, Honolulu and Hilo, which are the two principal cities. That is the statute.

Mr. SPOONER. You can not hold a Federal court in every county of a State.

Mr. ALLEN. You could hold terms of a Federal court in every county of every State in this Union if you wanted to, and I am not prepared to say that it would not be the wise thing—and I say it after some deliberation and some investigation—to invest, in the first instance, all Federal power in the State judiciary, to be exercised by the Federal judges, and to have any writ of error to the court of last resort, to the Supreme Court of the United States, or an intermediate court of appeal.

Mr. SPOONER. Will the Senator allow me?

Mr. ALLEN. Certainly.

Mr. SPOONER. Does the Senator contend that it is in the power of Congress to strip the admiralty jurisdiction under the Constitution in a State court?

Mr. ALLEN. There may be some question about that under the Constitution; but I am not speaking now of constitutions or technical questions. I am speaking of a question of policy. I do not think it would be the wisest thing the people of the United States could do, and that it would be conducive to purity in the administration of justice—a thing we much need nowadays—if all judicial power of the United States Government were invested in the first instance in the nisi prius of general jurisdiction of the different States and in the last resort, in the United States Supreme Court.

That position, Mr. President, is not without precedent. Here-tofore we have made the Territorial courts, which stand to the Territories very much as the State courts stand to the States, courts of general jurisdiction, and invested them with Federal jurisdiction as well; and they have exercised it as wisely, I presume, as courts generally exercise their jurisdiction.

Now, we have eight judges in those islands, seven of them exercising one kind of jurisdiction and one of them exercising a separate jurisdiction. It can not be presumed that the gentlemen who will be appointed to the circuit bench by competent authority will conform always to the qualifications necessary to the discharge of Federal duties. Ordinarily, one man possesses about as much qualification as another in that respect. You propose to have four circuit judges of general jurisdiction, criminal and civil; then you propose to have a district court of appeals or a superior court, then, distinct from that, a circuit court, then, you propose to have a Federal court or Federal courts, and that, too, in seven or eight islands that have not got, all told, 200,000 people to-day.

I do not believe that I am extravagant, whatever others may think, when I say that three good judges, or competent health and capacity, will be appointed to their duties, can discharge every necessary judicial function in those islands every year without impairing their health by labor. They can sit as a court in banc, in review of appeals from each other, with a writ of error to the Supreme Court of the United States for final hearing. They can come to suit and dispose of alt the cases that may be brought in those islands, and within a short time thereafter can become a citizen of the United States.

Mr. ALDRICH. And he can in Nebraska.

Mr. ALLEN. No. Mr. President; Hottentots can not in Nebraska.

Mr. ALDRICH. Why not?

Mr. ALLEN. They might be imported there, but the people of Nebraska would drive them out.

Mr. SPOONER. If the Senator will allow me, what law is there which would prevent a Hottentot going into Nebraska?

Mr. ALLEN. Mr. President, I do not care what happens in respect to this matter. I am perfectly willing that Senators shall interrupt me with proper questions. I do not care anything about it one way or the other.

But I am speaking of a great question, a question which is vital to this country, vital to the people you represent, Mr. President [Mr. PERKINS in the chair], and to the people you represent, that the country shall not be contaminated and debased by the unrestricted importation of this class of people. I am not indulging in the light and trivial question of whether some Hottentots, literally speaking, may be in Wisconsin, Rhode Island, or Nebraska.

Now, what restrictions have you put upon immigration? Nothing at all. All the rag-tag and bobtail elements of the world can go there.