These are the changes which have suggested, first, in regard to making the judiciary independent, and second, making the laws relating to the tenure of office uniform with our laws.

Mr. MONDELL. Does the gentleman’s amendment provide that these officers shall be citizens?

Mr. SHAFROTH. I have put it in the language of the Senate bill. I am perfectly willing that they should be citizens, if the gentleman desires it. I adopted the same language that I found in the section of the Senate bill. The amendment offered is the exact language of the Senate bill, if it comes here. It has been reported very generally throughout the States, and I understand was reported unanimously by the committee. I did not want to change any words relative to it.

Mr. MONDELL. Well, Mr. Chairman, I move to amend the amendment offered by the gentleman from Colorado.

Mr. SHAFROTH. I will accept the amendment.

Mr. KNOX. Mr. Chairman, I would say to the gentleman from Colorado that this provision received great consideration from the committee and very much more consideration than—if I may be permitted to speak of what has taken place at the other end of the Capitol—it did in the Senate. As the bill originally came from the commission appointed by the President, the provision was that the judges of the supreme court, as well as of the circuit courts, should be appointed by the governor, and that was supported upon the ground that the governor of these islands, 2,000 miles away from the shores of the United States, a man presumed to be acquainted with the members of the bar from whom the judges ought to be appointed, would be more fitted than another to decide who was best fitted to administer properly the laws of the territories.

Now, to meet the objection that was made against the appointment of the supreme court judges by the governor, and for an independent judiciary, the provision was made that the judges of the supreme court should be appointed by the President. The supremacy of the executive over the judicial courts in all cases is no case in which the governor or any other citizen could be involved in Hawaiian litigation but what the questions arising could be saved by a bill of exceptions, to go to the supreme court, judges of which are appointed by the President, as the gentleman desires for the amendment.

Now, Mr. Chairman, what are the circuit judges? The supreme court of Hawaii is the supreme court of judicature of general jurisdiction, with power to hear appeals in civil cases, in equity, and in admiralty, and in all questions of maritime jurisdiction. There are five courts in the island. Over these preside five circuit judges. They are simple nisi prius courts, which sit with juries and decide cases. These circuit judges may come appeals from the district courts, which are simple justices’ courts, with a limited jurisdiction of $300. They are not courts of last resort; all their proceedings may be reviewed by the supreme court on appeal or upon exceptions. They are local courts in every sense of the word, and they sit with local juries, which are drawn from the inhabitants of the island. Hence, in these cases, the judges would be much better selected by the governor, who is acquainted with the bar of the island, than by the President.

Mr. TERRY. Why do you give these judges so much longer terms than are given to judges in any other Territory of the United States?

Mr. KNOX. I was not now discussing the question of terms—

Mr. TERRY. That is involved here, however.

Mr. KNOX. I was not discussing that question. I will say, however, that our committee will propose an amendment as to the terms of these judges.

Mr. SHAFROTH. One question upon the point on which you are now: Is it not a fact that these circuit courts are courts of general jurisdiction, that the appellate or supreme court is only a court of appeal, and, consequently, every question that may be presented to it must first arise in the circuit courts?

Mr. TERRY. The gentleman from Colorado says that the committee court are questions arising on nisi prius trials. There are other questions, of course, such as questions in equity, matters of injunction, etc., that go in the first instance to the supreme court.

Mr. SHAFROTH. I understand that these are courts of general jurisdiction.

Mr. KNOX. So they are.

Mr. SHAFROTH. And that the supreme court is the court of appeals.

Now, the point I wanted to make was simply this: That every circuit court of general jurisdiction has had it at some time questions involving the conduct of the police or the policy of the governor—

The CHAIRMAN. The gentleman’s time has expired.

Mr. KNOX. I ask a moment, with the indulgence of the committee. The gentleman from Colorado has had great experience in connection with territorial governments and their operations—much greater than I have had—perhaps greater than that of any other member of the committee. I ask him whether, in the organization of any of our Territories heretofore, this power has been given to the President.

Mr. KNOX. Oh yes; in all instances.

Mr. SHAFROTH. As to other judges than those of the supreme judges?

Mr. SHAFROTH. The supreme judges are the trial judges.

Mr. KNOX. That is not the question. Has the President appointed any judges in any of our Territories except judges of the supreme court?

Mr. SHAFROTH. There are no other judges in our Territories except probate judges elected by the people.

Mr. KNOX. Here we have their circuit judges, who are judges of probate; all such must go before them.

Mr. SHAFROTH. That might be, and if elected by the people, they would be an independent judiciary.

[Here the hammer fell.]

The CHAIRMAN. The Chair asks the attention of the gentleman from Colorado for a moment. He proposes an amendment to strike out a certain part of this section which has not yet been read. Without objection, the remainder of the section will be read; and then the motion of the gentleman will be in order.

There was no objection.

The Clerk read as follows:

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

Mr. SHAFROTH. That is the part of the bill to which my amendment is offered.

The CHAIRMAN. Debate is exhausted on this amendment. The question is on agreeing to the amendment.

Mr. ROBINSON of Indiana. I move to amend by striking out the last paragraph.

The CHAIRMAN. That would not be in order.

Mr. CANNON. I want to appeal to the gentleman from Massachusetts [Mr. Knox] to move that the committee rise. Let the bill be finished to-morrow.

The Clerk. If the gentleman will allow this section to be read through, I will not ask the indulgence of the committee any longer this afternoon.

Mr. MONDELL. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman from Wyoming [Mr. Mondell] rise?

Mr. MONDELL. I desire unanimous consent to discuss the pending question for three minutes.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to address the House. Whole for three minutes. Is there objection? The Chair hears none.

Mr. MONDELL. Mr. Chairman, I hope that the amendment of the gentleman from Colorado will be adopted. The provision of the bill which he proposes to amend is a departure from our past practice in the Territories. I believe there are even stronger reasons why the judges in Hawaii should be appointed by the President than have existed with regard to the Territories heretofore formed.

The greatest danger in the new Territory, Mr. Chairman, is the danger of centralization of power, and this amendment is for the purpose of obviating, to that extent, the danger. I believe that whoever is appointed governor of the new Territory will take this Congress to be relieved of the duty and responsibility of appointing judges.

Mr. MONDELL. We will have a better government there, a more satisfactory government, if we follow the rule which we have followed from the foundation of the Government, leaving the judicial appointments in the hands of the President.

Mr. KNOX. I ask for a vote.

The CHAIRMAN. The question is upon agreeing to the amendment offered by the gentleman from Colorado [Mr. Shafroth].

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. PARKER of New Jersey and Mr. FLETCHER demanded a division.

The CHAIRMAN. Did any gentleman demand a division?

Mr. PARKER of New Jersey. I demanded a division.

The committee divided; and there were—ayes 86, noes 27.

Mr. KNOX. Mr. Chairman, as many members of the House have expressed a desire to know when the House would remain in session, I would say in regard to this section 73 that the gentleman from Nevada [Mr. Newlands] has an amendment which he desires to offer to-morrow. I will therefore ask unanimous consent that the section may be considered as still pending.