The Territory, $3,000; the United States district judge, $3,000; the United States marshal, $2,000; the United States district attorney, $2,000. And the governor, in addition to his salary, the sum of $500 for stationery, postage, and incidentals; also his traveling expenses while absent from the seat of his official business, and the sum of $2,000 annually for his private secretary.

Mr. KNOX. Mr. Chairman, I have an amendment I desire to offer to that section.

The Clerk read as follows:

On page 93, section 90, in line 6, after the word "dollars," add the words "and the chief justice of the supreme court of the Territory, $3,500, and associate justices, $3,000." Mr. KNOX. The question was taken, and the amendment was agreed to.

Mr. ROBINSON of Indiana. I offer an amendment to follow the last amendment. I would like to have the attention of the gentlemen of Massachusetts to this amendment.

The Clerk read as follows:

Add, after the word "judge" of the last amendment, "salaries of the said chief justice and associates of the supreme court and the judges of the circuit courts shall be paid by the Territory of Hawaii."

Mr. ROBINSON of Indiana. That provides that the salaries of the United States courts, the stenographer, and clerk shall be paid by the United States, and that the salaries of the Territorial judges shall be paid by the Territory of Hawaii.

Mr. KNOX. Well.

Mr. ROBINSON of Indiana. The salaries of the Territorial judges shall be paid by the Territory.

Mr. KNOX. The circuit court judges?

Mr. ROBINSON of Indiana. And the judges of the supreme court of Hawaii.

Mr. KNOX. Well.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

PROCEDINGS PERTAINING TO FISHERIES TO CITIZENS.

Sec. 97. That any person who claims a private right to any such fishery shall, within two years after the taking effect of this act, file his petition in a circuit court of the Territory of Hawaii, setting forth the production of said right, service of which petition shall be made upon the attorney-general, who shall proceed to investigate the same. If, in the opinion of the said court, such right exists, the court shall be held and conducted as an ordinary action at law.

The committee report further that the courts of the Territory of Hawaii may proceed, as already provided for in the law for the condemnation of property for public use, to condemn such private right of fishing to the use of the United States, and the proceeds divided between the owner and the United States, which condemnation shall be paid out upon the payment in the treasuries of the United States of Hawaii not otherwise appropriated.

Mr. GILBERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amend section 97 by striking out the last five words, to wit:—

Mr. GILBERT. Mr. Chairman, I withdraw it. There was a break in the section. When I drafted the amendment it occurred to me that that was not the section. What I meant to offer as an amendment is this: In line 25, section 97, the last five words are, "an ordinary action at law." I want to insert in lieu of those words "ordinary actions at law or in equity." The committee seems to think that an action at law is not the proper vehicle for such a claim.

The CHAIRMAN. The gentleman will please suspend and send the amendment to the desk. It will then be reported to the committee.

Mr. GILBERT. Certainly.

Mr. GILBERT. If I understood the gentleman's amendment, it is this: In the settlement of property rights condemnation proceedings were necessary, it should be in courts of law or in courts of equity. Is that what you mean?

Mr. GILBERT. It is.

Mr. FINLEY. I would like to ask the gentleman this question: Does he not think that the provision of the Constitution of the United States, that providing that no property shall be taken for public use without due process of law means a trial by jury, and therefore an action at law?

Mr. GILBERT. In the Kentucky practice in a proceeding for the condemnation of property for public uses we do not necessarily have a jury. I think this means process by due course of law in the courts. We do not necessarily have a jury trial.

Mr. KNOX. I wish to say that this question does not deal with the right but with the method of procedure. Some method of procedure must be provided, in the same way as taking lands for a public highway. When you condemn property for a public use and compensation is made according to a certain method of procedure, we provide the method by which it shall be done, the same as an action at law. If you include equity in it, then no method of procedure is provided.

Mr. GILBERT. The gentleman does not catch the force of my amendment. The bill restricts the procedure to common-law cases. By the terms of your bill the vested right is destroyed unless the party can vindicate it in court by a common-law issue, by an ordinary proceeding at common law. Now, by this amendment I merely broaden the right of the person holding the vested right, so that if he can show the courts that he has a vested right in the property, as the issue is an equitable one, he can maintain it. His right to property is none the less if it is not an absolute right. He reads this bill he is confined to a common-law action as contradistinguished from an equitable proceeding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. GILBERT].

The amendment was disagreed to.

Mr. KNOX. Mr. Chairman, I have an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report.

The Clerk read as follows:

On page 94, section 97, line 34, strike out the words "the governor" and insert in lieu thereof "the attorney-general.

The amendment was agreed to.

Mr. ROBINSON of Indiana. That was the amendment adopted.

Now, I propose an amendment to that. Mr. Chairman, I will ask unanimous consent to return to the amendment adopted on the question of salaries of judges being paid by the Territory of Hawaii, and ask to add an amendment.

Mr. KNOX. What section is it?

Mr. ROBINSON of Indiana. I will ask to read the original amendment.

The Clerk read as follows:

The salaries of said chief justice and associate justices of the supreme court and the circuit court as above provided shall be paid by the Territory of Hawaii.

Mr. ROBINSON of Indiana. That was the amendment adopted.

Now, I propose an amendment to that. The amendment adopted by the gentleman of Kentucky asks unanimous consent to return to section 93 for the purpose of offering an amendment. Is there objection? [After a pause.] The Chair hears none.

The Clerk will report the amendment.

The Clerk read as follows:

Mr. GROSVENOR. Mr. Chairman, I do not know from the chairman of the committee, and I have asked for an explanation of this section of the bill, which, in my judgment, ought not to be in the bill at all, because of the superior jurisdiction of the maritime laws of the United States over the Territorial law, and particularly because of certain dangerous provisions in the bill, or rather the lack of a careful provision, in my judgment.

Mr. KNOX. Mr. Chairman, this section provides that Hawaiian ships—ships that had a Hawaiian register at the time of annexation—are given a United States register. They could have no other register; they would be sailing without a flag of any nationality. The Hawaiian flag went down upon the government building in Hawaii on August 12, 1898, and the American flag was raised with proper ceremonies. No flag of Hawaii from that day forward means anything, and a vessel sailing under a Hawaiian flag is sailing under no flag and no nationality.

Now, there were brought to the attention of the committee by many gentlemen claims that there were other vessels than those which had a Hawaiian register entitled to a Hawaiian register upon this ground; that they had been bought in good faith by Hawaiians and intended for a Hawaiian register, but sailing under a temporary register, or sea letter, and without any transfer of federal rights to a Hawaiian register. I think the committee is not clear on the interpretation of this section. Now, if that were so, then they should be entitled to the benefits of this register; but there were statements made that there were very many vessels that would claim the benefit of this American register, and you can see that it would be a matter of thousands of dollars. Mr. Chairman, I venture to ask the Chair to make the interpretation intended for a Hawaiian register.

So the committee, hearing the result of a general provision, and the number who would claim that they owned vessels intended