
CONGRESSIONAL GLOBE AND APPENDIX

SECOND SESSION FORTY-FIRST CONGRESS:

IN SEVEN PARTS.

PART III,
CONGRESSIONAL GLOBE.

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
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bation of the Commissioner of the General Land Office and the approbation of the entire delegation, to correct some errors, I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that in cases where entries were made under the act of Congress approved the 4th of August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;" and the parties in good faith went upon the land embraced in their entries, and became actual settlers and cultivators thereof, according to the requirements of the law, but were afterward forced to abandon their homes on the land in consequence of the disturbed condition of the country during the late war, their entries shall be confirmed and patented, notwithstanding such abandonment, on satisfactory proof of the facts being produced to the Commissioner of the General Land Office within twelve months from the approval of this act. But nothing in the act is to be construed as to confirm any entries which have heretofore been annulled and vacated by said Commissioner on account of fraud, evasion of law, or other special cause.

Mr. WARNER. I would suggest an amendment in order to make the bill purely local by inserting the words "in Alabama."

The VICE PRESIDENT. That amendment will be made if there be no objection. The Committee on Public Lands reported an amendment, which will be read.

The SECRETARY. The amendment of the committee is in line twelve, after the word "patented," to insert "to them, their heirs, or assigns, respectively;" so as to read:

Their entries shall be confirmed and patented to them, their heirs, or assigns, respectively, notwithstanding such abandonment, on satisfactory proof of the facts being produced to the Commissioner of the General Land Office within twelve months from the approval of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. THURMAN. I do not know that I am opposed to this bill; but I should like to understand whether it has some proper safeguards about it. The laws require a certain period of residence in order to entitle a person to preemption or to the benefit of the homestead law. This bill, if I catch its purport rightly, proposes to dispense with a portion of that residence because those who had taken up their residence on the land were driven off. Now, it may be that in the long period intervening between 1865, when the war closed, and 1870, some intervening rights became vested. I should like to know from the gentleman who presents the bill whether, if that be the case, they are protected; and if, in regard to other cases, it would not be right to require that the persons who actually occupied the land, but who were driven off before the period of occupancy prescribed by the law expired, should complete that period of occupancy before their title should be perfected? I ask for information on this subject.

Mr. SPENCER. As I introduced the bill I will endeavor to explain it as briefly as possible. This bill only refers to entries made under the graduation act of 1854. There were a large number of entries made by parties who settled upon the land previous to the time the war commenced. By that act a certain length of time was necessary to complete their titles. Prior to the time for the issue of patents the war occurred, and some of those settlers were driven off. The entries were made from the year 1855 to 1861. The parties received their certificates and supposed their titles were good, but they had not received their patents up to the time of the breaking out of the war in 1861. During the war many of them were driven off; others made changes, and now the land office at Huntsville refuses to issue patents except

to those who are actual residents at the present time upon the land.

Mr. POMEROY. Does this bill interfere with any rights that have accrued since they left the land?

Mr. SPENCER. There are no such rights.

Mr. POMEROY. I should like to have this bill laid over until to-morrow. I wish to see whether it interferes with any rights that have accrued.

Mr. SPENCER. The bill was drawn up by Mr. Wilson, of the General Land Office, who thoroughly understands the subject. It interferes in no way with any vested rights. It is perfectly just, right, and proper.

Mr. POMEROY. I only want to know if it does interfere with any rights that have vested since these persons went off the land.

Mr. SPENCER. It does not.

Mr. POMEROY. The fact that the bill is silent on that point rather implies that it may, I think. Certainly, after parties left the land others might have acquired rights.

Mr. SPENCER. These parties sold the land. This is for the benefit of parties who made trades or sold the land. None of the land has been entered technically; the land offices have not been open for entries since that time.

Mr. POMEROY. The design of the graduation act was not that parties might get rights and sell them, but it was that they should get rights for homesteads to themselves.

Mr. SPENCER. I understand that; but the war forced a great many changes that otherwise would not have taken place.

Mr. CONKLING. If there be doubt about this why not add a proviso, "provided this act shall not affect the rights of subsequent purchasers in good faith?"

Mr. SPENCER. I have no objection to that amendment.

Mr. CONKLING. Then I suggest this amendment:

Provided, That this act shall not affect the rights of subsequent purchasers in good faith.

The VICE PRESIDENT. The question is on the amendment of the Senator from New York.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read "A bill to confirm entries of public land in certain cases in the State of Alabama."

BILL INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 675) to facilitate postal intercourse with foreign countries; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

FREEDMEN AMONG CHOCTAWS, ETC.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the report made by Major Clark to General O. O. Howard, Commissioner of the Freedmen's Bureau, on the condition of the freedmen in the Choctaw and Chickasaw Indian nations.

WITHDRAWAL OF PAPERS.

On motion of Mr. DRAKE, it was

Ordered, That J. H. Merrill have leave to withdraw his petition and other papers for compensation for services rendered in the Army during the rebellion, and also at San Francisco in the year 1849, from the files of the Senate.

NORTHERN PACIFIC RAILWAY.

Mr. HOWARD. I now move that Senate joint resolution No. 121, authorizing the Northern Pacific Railroad Company to issue its bonds for the construction of its road and to secure the same by mortgage, be made the special order for Monday next at one o'clock.

Mr. TRUMBULL. I do not know that I have any objection to having that measure

considered; but I doubt the propriety of making it a special order at this time. We have several matters of pressing importance that must first be disposed of. Here is the Georgia bill; here is the Texas bill. The Senator from Maine [Mr. MORRILL] has several appropriation bills, but I do not know that he is pressing them.

Mr. HOWARD. If there is any unfinished business at that time of course it will take precedence; but this is a subject that ought to be acted on.

Mr. KELLOGG. Does not this motion require unanimous consent?

The VICE PRESIDENT. It requires a two-thirds vote by the rules.

Mr. KELLOGG. I hope the order will not be made.

Mr. CORBETT. I hope this will be made a special order. The parties who are now engaged in the work are making preparations, and they are in a state of uncertainty in consequence of this resolution not being acted upon. I hope it will be acted upon at the earliest possible day. I trust we shall make it the special order for Monday.

Mr. CONKLING. I shall vote for this motion, and chiefly for this reason: this measure is one of a class of bills that are best considered, I think, when we know in advance the time when they are to be taken up. Those who wish to object to the bill, who are able to show, if such be the fact, that it ought not to receive the approval of the Senate, know then; and all other members of the Senate know in advance the time when the bill is to be considered, and derive an advantage from that fact. Therefore, be the bill meritorious or otherwise, it belongs to a class which I think it is well to consider on a day fixed in advance, so that I shall vote cheerfully for the motion.

The VICE PRESIDENT. The question is on the motion of the Senator from Michigan, which requires a two-thirds vote.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 191) appropriating to the widow and children of the late E. M. Stanton, for their use, a sum equal to one year's salary of an associate justice of the Supreme Court of the United States; and it was thereupon signed by the Vice President.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. HORACE PORTER, his Secretary, announced that the President had this day signed and approved the bill (S. No. 260) for the relief of Polly Hunt, administratrix, and George W. Hunt, administrator, of the estate of Walter Hunt, deceased.

STATE OF GEORGIA.

The VICE PRESIDENT. The morning hour has expired and the Georgia bill is before the Senate, and the Senator from Indiana [Mr. MORTON] is entitled to the floor.

Mr. MORTON. I decline the floor for the present.

Mr. REVELS. Mr. President, I rise at this particular juncture in the discussion of the Georgia bill with feelings which perhaps never before entered into the experience of any member of this body. I rise, too, with misgivings as to the propriety of lifting my voice at this early period after my admission into the Senate. Perhaps it were wiser for me, so inexperienced in the details of senatorial duties, to have remained a passive listener in the progress of this debate; but when I remember that my term is short, and that the issues with which this bill is fraught are momentous in their present and future influence upon the well-being of my race, I would seem indifferent to the importance of the hour and recreant to the

high trust imposed upon me if I hesitated to lend my voice on behalf of the loyal people of the South. I therefore waive all thoughts as to the propriety of taking a part in this discussion. When questions arise which bear upon the safety and protection of the loyal white and colored population of those States lately in rebellion I cannot allow any thought as to mere propriety to enter into my consideration of duty. The responsibilities of being the exponent of such a constituency as I have the honor to represent are fully appreciated by me. I bear about me daily the keenest sense of their weight, and that feeling prompts me now to lift my voice for the first time in this Council Chamber of the nation; and, sir, I stand to-day on this floor to appeal for protection from the strong arm of the Government for her loyal children, irrespective of color and race, who are citizens of the southern States, and particularly of the State of Georgia.

I am well aware, sir, that the idea is abroad that an antagonism exists between the whites and blacks, that that race which the nation raised from the degradation of slavery, and endowed with the full and unqualified rights and privileges of citizenship, are intent upon power, at whatever price it can be gained. It has been the well-considered purpose and aim of a class not confined to the South to spread this charge over the land, and their efforts are as vigorous to-day to educate the people of this nation into that belief as they were at the close of the war. It was not uncommon to find this same class, even during the rebellion, prognosticating a servile war. It may have been that "the wish was father to the thought." And, sir, as the recognized representative of my downtrodden people, I deny the charge, and hurl it back into the teeth of those who make it, and who, I believe, have not a true and conscientious desire to further the interests of the whole South. Certainly no one possessing any personal knowledge of the colored population of my own or other States need be reminded of the noble conduct of that people under the most trying circumstances in the history of the late war, when they were beyond the protection of the Federal forces. While the confederate army pressed into its ranks every white male capable of bearing arms, the mothers, wives, daughters, and sisters of the southern soldiers were left defenseless and in the power of the blacks, upon whom the chains of slavery were still riveted; and to bind those chains the closer was the real issue for which so much life and property was sacrificed.

And now, sir, I ask, how did that race act? Did they in those days of confederate weakness and impotence evince the malignity of which we hear so much? Granting, for the sake of argument, that they were ignorant and besotted, which I do not believe, yet with all their supposed ignorance and credulity they in their way understood as fully as you or I the awful import of the contest. They knew if the gallant corps of national soldiers were beaten back and their flag trailed in the dust that it was the presage of still heavier bondage. They longed, too, as their fathers did before them, for the advent of that epoch over which was shed the hallowed light of inspiration itself. They desired, too, with their fathers, to welcome the feet of the stranger shod with the peaceful preparation of good news. Weary years of bondage had told their tale of sorrow to the court of Heaven. In the councils of the great Father of all they knew the adjudication of their case, albeit delayed for years, in which patient suffering had nearly exhausted itself, would in the end bring to them the boon for which they sighed—God's most blessed gift to His creatures—the inestimable boon of liberty. They waited, and they waited patiently. In the absence of their masters they protected the virtue and chastity of defenseless women. Think, sir, for a moment, what the condition of this land would be to-day if the slave population had risen in servile insurrection against

those who month by month were fighting to perpetuate that institution which brought to them all the evils of which they complained. Where would have been the security for property, female chastity, and childhood's innocence? The bloody counterpart of such a story of cruelty and wrong would have been paralleled only in those chapters of Jewish history as recorded by Josephus, or in the still later atrocities of that reign of terror which sent the unfortunate Louis XVI and Marie Antoinette to the scaffold. Nay, the deeds in that drama of cold-blooded butchery would have out-heroded the most diabolical acts of Herod himself.

Mr. President, I maintain that the past record of my race is a true index of the feelings, which to-day animate them. They bear toward their former masters no revengeful thoughts, no hatreds, no animosities. They aim not to elevate themselves by sacrificing one single interest of their white fellow-citizens. They ask but the rights which are theirs by God's universal law, and which are the natural outgrowth, the logical sequence of the condition in which the legislative enactments of this nation have placed them. They appeal to you and to me to see that they receive that protection which alone will enable them to pursue their daily avocations with success and enjoy the liberties of citizenship on the same footing with their white neighbors and friends. I do not desire simply to defend my own race from unjust and unmerited charges, but I also desire to place upon record an expression of my full and entire confidence in the integrity of purpose with which I believe the President, Congress, and the Republican party will meet these questions so prolific of weal or woe, not only to my own people, but to the whole South. They have been, so far as I can read the history of the times, influenced by no spirit of petty tyranny. The poet has well said that—

"It is excellent
To have a giant's strength; but it is tyrannous
To use it like a giant."

And how have they used that power lodged in them by the people? In acts of cruelty and oppression toward those who sought to rend in twain this goodly fabric of our fathers, the priceless heritage of so much hardship and endurance in revolutionary times? Let the reconstruction enactments answer the interrogation. No poor words of mine are needed to defend the wise and beneficent legislation which has been extended alike to white and colored citizens. The Republican party is not inflamed, as some would fain have the country believe, against the white population of the South. Its borders are wide enough for all truly loyal men to find within them peace and repose from the din and discord of angry faction. And be that loyal man white or black, that great party of our Republic will, if consistent with the record it has already made for posterity, throw around him the same impartial security in his pursuit of liberty and happiness. If a certain class at the South had accepted in good faith the benevolent overtures which were offered to them with no niggard hand to-day would not find our land still harassed with feuds and contentions.

I remarked, Mr. President, that I rose to plead for protection for the defenseless race who now send their delegation to the seat of Government to sue for that which this Congress alone can secure to them. And here let me say further, that the people of the North owe to the colored race a deep obligation which it is no easy matter to fulfill. When the Federal armies were thinned by death and disaster, and somber clouds overhung the length and breadth of the Republic, and the very air was pregnant with the rumors of foreign interference—in those dark days of defeat, whose memories even yet haunt us as an ugly dream, from what source did our nation in its seeming death throes gain additional and new-found power? It was the sable sons of the South that valiantly rushed to the rescue, and but for their intrepidity and

ardent daring many a northern fireside would miss to-day paternal counsels or a brother's love.

Sir, I repeat the fact that the colored race saved to the noble women of New England and the middle States men on whom they lean to-day for security and safety. Many of my race, the representatives of these men on the field of battle, sleep in the countless graves of the South. If those quiet resting-places of our honored dead could speak to-day what a mighty voice, like to the rushing of a mighty wind, would come up from those sepulchral homes! Could we resist the eloquent pleadings of their appeal? Ah, sir, I think that this question of immediate and ample protection for the loyal people of Georgia would lose its legal technicalities, and we would cease to hesitate in our provisions for their instant relief. Again, I regret this delay on other grounds. The taunt is frequently flung at us that a Nemesis more terrible than the Greek personation of the anger of the gods awaits her hour of direful retribution. We are told that at no distant day a great uprising of the American people will demand that the reconstruction acts of Congress be undone and blotted forever from the annals of legislative enactment. I inquire, sir, if this delay in affording protection to the loyalists of the State of Georgia does not lend an uncomfortable significance to this boasting sneer with which we so often meet? Delay is perilous at best; for it is as true in legislation as in physic, that the longer we procrastinate to apply the proper remedies the more chronic becomes the malady that we seek to heal.

"The land wants such
As dare with rigor execute the laws.
Her festered members must be lanced and tented.
He's a bad surgeon that for pity spares
The part corrupted till the gangrene spread
And all the body perish. He that's merciful
Unto the bad is cruel to the good."

Mr. President, I favor the motion to strike out so much of the bill under debate as tends to abridge the term of the existing Legislature of Georgia. Let me, then, as briefly as possible, review the history of the case which so urgently claims our prompt action. In the month of November, 1867, an election was held by the authority of the reconstruction policy of this Congress in the State of Georgia. Its object was to settle by the ballot of her whole people, white and colored, whether it was expedient to summon a convention which should frame a constitution for civil government in that State. A certain class of the population declined to take any part in the election. The vote cast at that election represented thirty thousand white and eighty thousand colored citizens of the State. It was a majority, too, of the registered vote, and in consequence a convention was called. A number of the delegates who formed that convention were colored. By its authority a constitution was framed just and equitable in all its provisions. Race, color, or former condition of servitude found no barrier in any of its ample enactments, and it extended to those lately in armed rebellion all the privileges of its impartial requirements. This constitution was submitted to the people of the State for ratification. Every effort which human ingenuity could call into requisition to defeat its adoption was resorted to. The loyal population of the State was victorious; and notwithstanding the determination of some to defeat the constitution that same class sought under its provisions to procure the nomination for all the offices within the gift of the people. A number were declared elected as county officers and members of the General Assembly.

Under the authority given by the act of Congress of June 25, 1868, the Legislature thus elected convened on the 4th of July of the same year in Atlanta. The act of Congress to which I refer reaffirmed certain qualifications which were demanded from all persons who were to hold office in the reconstructed States.

After some delay a resolution was adopted by the Legislature of Georgia declaring that that body was duly qualified, and thus began the civil government in the State. Peace and harmony seemed at last to have met together, truth and justice to have kissed each other. But their reign was of short duration. By and by the reconstruction acts of Congress began to be questioned, and it was alleged that they were unconstitutional; and the Legislature which was elected under the constitution framed and supported by colored men declared that a man having more than an eighth of African blood in his veins was ineligible to office or a seat in the Legislature of the State of Georgia. These very men, to whom the Republican party extended all the rights and privileges of citizenship, whom they were empowered, if deemed expedient, to cut off forever from such beneficent grants, were the men to deny political equality to a large majority of their fellow-citizens. In the month of September, 1868, twenty-eight members of the Legislature were expelled from that body, and upon the assumption of the strange and startling hypothesis just mentioned they continued to legislate in open violation of the constitution. That constitution required by its provisions the establishment of a system of free schools. Such provisions were wholly abortive, indeed a dead letter, for none were established. The courts of law, at least so far as colored men were regarded, were a shameless mockery of justice. And here an illustration, perhaps, will the better give point to my last remark. A case in which was involved the question whether or not a colored man was eligible to one of the county offices was taken before the superior court, and the judge upon the bench rendered as his judicial opinion that a man of color was not entitled to hold office. I am told, sir, that the colored man in question is a graduate of Oberlin, Ohio, and served with honor as a commissioned officer in the Union Army during the late war. Is any comment needed in this body upon such a condition of affairs in the State of Georgia? Sir, I trust not.

Then, again, these facts were presented for the calm consideration of Congress in the following December, and the results of their deliberation may be seen in the report of the Committee on the Judiciary toward the close of January of last year. Congress took no action to remedy this state of affairs and aid the people of Georgia in obtaining the rights clearly guaranteed to them by the provisions of their State constitution.

In December last, at the earnest recommendation of the President, the act of the 22d of that month was adopted. It provided for the reassembling of the parties declared to have been elected by the general commanding that district, the restoration of the expelled persons of the Legislature, and the rejection of disqualified persons by that body. The present Legislature of Georgia has adopted the fourteenth and fifteenth amendments to the Constitution of the United States and the fundamental conditions required by the act of June 25, 1868. The reconstructed State of Georgia now offers herself, through the constitutionally elected Senators, as meet and fit for the recognition and admission by this Congress.

I have thus rapidly gone over the history of the events which have transpired in the State of Georgia till I have come to the legislation of the present time. The Committee on Reconstruction in the other House prepared and presented a bill providing for the admission of the State on similar grounds to those on which my own State and Virginia were allowed to take their places in the Union. An amendment, however, was proposed in the House and adopted, the aim and purport of which is to legalize the organization of 1868, and declare that the terms of the members of the Legislature, who have so recently qualified for a fair and just recognition by Congress, shall expire before they have completed their full

term of two years under the constitution. Again, this amendment seeks to retain in office, whether approved by the Legislature of the State or not, the judges who have declared, in opposition to the constitution and the law, that in the State of Georgia at least there exists a distinction as to race and color, so far as civil and political rights are concerned. If there be any meaning in the words of the constitution of that State no such class distinction as this exists; and, sir, I am at a loss to determine upon what grounds we are called upon to hedge in by congressional enactment any public servant who may still give utterance to such doctrines, which are part and parcel of the effete civilization of our Republic. If the Legislature of Georgia thinks it right and proper to place in positions of trust and responsibility men of this school of political thought, certainly I shall not offer one objection. But let that Legislature assume the risk, as it is its true province, and let it also bear the consequences.

I do not believe that it can be proved that the State of Georgia has ever been beyond the control of Congress, nor that she has ever become fully admitted into the Union or entitled to representation since her impotent efforts to promote rebellion; and that therefore, when the act now under consideration and properly amended shall have been adopted, the government of that State and the Legislature of that State will enter upon the terms of office, will assume the powers for good and right and justice which are prescribed in the constitution of that State, and that under the circumstances the Senate will not deny to the loyal men of Georgia the recognition of their recent victory.

And now, sir, I protest in the name of truth and human rights against any and every attempt to fetter the hands of one hundred thousand white and colored citizens of the State of Georgia. Sir, I now leave this question to the consideration of this body, and I wish my last words upon the great issues involved in the bill before us to be my solemn and earnest demand for full and prompt protection for the helpless loyal people of Georgia.

I appeal to the legislative enactments of this Congress, and ask if now, in the hour when a reconstructed State most needs support, this Senate, which hitherto has done so nobly, will not give it such legislation as it needs.

Mr. MORTON. Mr. President—

WITHDRAWAL OF PAPERS.

Mr. HOWE. Will the Senator yield to me for a minute?

Mr. MORTON. Yes, sir.

Mr. HOWE. Yesterday the Senator from Illinois [Mr. TRUMBULL] moved to withdraw the papers in support of the claim of J. H. Merrill. Upon my objection the motion was not granted. I understand this morning, while I was out of my seat, the honorable Senator from Missouri [Mr. DRAKE] made the same motion, and that it was granted. Now, I desire to call the attention of the Chair and of the Senate to the forty-ninth rule, and ask that it may be read.

The VICE PRESIDENT. The Secretary will read the forty-ninth rule of the Senate.

The Chief Clerk read as follows:

"49. Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report be adopted by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session unless the claimant shall present a memorial for that purpose stating in what respect the committee have erred in their report, or that new evidence has been discovered since the report, and setting forth the new evidence in the memorial."

Mr. HOWE. I desire to say that my understanding of that rule has been that papers in such a case could not be withdrawn without the action of the Senate, and that the rule required the presentation of a memorial stating grounds for a rehearing before the Senate to ordinarily allow papers to be withdrawn.

Of course, if there is no objection made to the withdrawal, that is the assent of the Senate; but the rule requires that such a case should be presented.

Now, if I am right in my construction of the rule I wish to call the attention of the Senate to the importance of its being observed. My belief is that a part of this very claim has been twice rejected by the Senate. There is before the Committee on Claims now the claim of another individual, which was once acted upon by that committee and by them reported in his favor for a certain amount, and that passed into a law. Subsequently the individual insisted that he had not received enough, and he renewed his claim. Subsequently he asked to withdraw his papers and to refer them to the Committee on Patents, which was done. I understand that the same claim has been presented to the Committee on Patents in the other House and has been rejected. The Committee on Patents in the Senate reported against it and it has got back to the Committee on Claims again. That is another instance.

There is another claim that I now have in my mind which has been reported against once and has been recommitted again.

Unless my construction of this rule is observed the Committee on Claims has no protection whatever, because the moment the papers pass out of the custody of the Senate they may be presented to any member who is an entire stranger to the case, and upon his motion, without any objection, they are referred to the committee again. So over and over again the committee are called upon to pass upon these claims, and they have to go through with them again and again. If my construction of the rule is right I hope it will be enforced hereafter, and I now move to reconsider the vote by which these papers were allowed to be withdrawn.

Mr. DRAKE. Mr. President—

The VICE PRESIDENT. The Senator from Missouri will suspend. The Senator from Wisconsin desires the ruling of the Chair upon this rule.

Mr. DRAKE. I ask before the Chair gives its ruling to be allowed to make a brief statement about this matter.

The VICE PRESIDENT. The Chair was about to rule generally on the rule, not in regard to the specific case alluded to by the Senator from Wisconsin. The rule is very distinct and the Chair will decide upon it at present. The forty-ninth rule says:

"Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report be adopted by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session unless the claimant shall present a memorial for that purpose," &c.

The Chair can only rule on these rules as he finds them. Adopting the maxim which he understands the lawyers adopt in their pleadings, not being a lawyer himself, that the inclusion of one point specifically stated excludes other points, the Chair has no doubt as to the construction of this rule. This rule states that a certain thing shall not be done; but it does not state that other things shall not be done. It states that when an adverse report has been agreed to by the Senate it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose. It does not prohibit a withdrawal of the papers by a vote of the Senate from the files of the Senate. If it had intended so to do the rule certainly should have so stated and clearly stated. In the case of the Senator from Missouri this morning and the case of the Senator from Rhode Island, the Senator from Missouri asked consent of the Senate to withdraw certain papers. The Chair asked if there was objection, and there was none. The Senator from Rhode Island this morning made an adverse report, and stated that he asked on behalf of the committee that the