

CHAPTER 323.

[Published March 14, 1874.]

AN ACT for the relief of S. D. Carpenter.

Secretary Harvey feared the contractor had obtained legal advantage of the state.

WHEREAS, It appears from the report of Louis P. Harvey, secretary of state, for the year 1861, that said Harvey, by and with the advice and consent of the then attorney general of the state, fearing that the public contractor for the printing in 1859 and 1860, had obtained large legal advantages of the state for sums of money, in excess of the intrinsic value thereof, did propose to S. D. Carpenter, assignee of said contract, to settle all his claims against the state on a rule of quantum meruit for the work done and to be done, and materials furnished, by and under said contract, to be determined by two experts, to wit: Sterling P. Rounds, of Chicago, and Charles Holt, then of Janesville, mutually chosen by the said Harvey, on the part of the state, and by the said assignee—that said Rounds and Holt, as umpires in the matter did agree upon certain rules or basis, that would, in their opinion, be equal to the actual value of the items of work and materials, except as to the matter of blank books, etc., and that said secretary of state, on and in behalf of the state of Wisconsin, did agree to pay just what the work was really worth, when so ascertained by the umpires, deducting the amount that had then actually been paid to the said assignee, which contract and all the obligations attaching to the same was endorsed and sought to be legalized by chapter 265 of the general laws of 1861, including also the stipulations in said contract relative to the payment of the costs, fees, etc., in the suits which said assignee had instituted against the state on account of the controversy growing out of the public printing; and

Umpires chosen, and Secretary agreed to abide by their award

Claim never paid, however.

WHEREAS, The said assignee claims that he has not been paid as stipulated in either mode of settlement, as aforesaid, which claim has been recognized by both branches of the legislature at different sessions and the said assignee has petitioned the legislature for a full, just and equitable settlement, on either one or the other of said agreements, as full satisfaction of both; therefore,

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Commissioners

SECTION 1. For the purpose of equitably settling al

claims of S. D. Carpenter, assignee for the contract for the public printing in 1859 and 1860, and all claims of every kind or nature growing out of the said contract, or any stipulations with any officer of the state in reference to the settlement for printing under said contract, or any other contract or stipulation in reference to controversies growing out of said contract or the settlement of terms of payment thereunder, as aforesaid, the commissioners of printing are hereby authorized and required to appoint one practical printer, as an expert accountant, who shall, without unreasonable delay, proceed to examine the accounts and vouchers in reference to the said printing contract, and to accurately compute the actual amount of all work done and materials furnished under the said printing contract or by virtue of the terms thereof, and the official orders for the work, as required by chapter 114, general laws of 1858, and to arrange the sum total in tabular form, as composition, plain — thousands—rule or figure work — thousands,—rule and figure work — thousands, — press-work, — tokens; book paper, — quires; print paper, — quires; bill paper, — quires; whole number of volumes bound; whole number sections folding, —; whole number of 100 pamphlets and other documents stitched, etc., — whole number quires of cap or letter blanks, printed on one side; whole number same printed both sides, and the like for other kinds and styles of blanks, and noting the gross amount, or number of each and every kind and style of work or materials rendered or furnished under the said contract according to the terms and requirements of the law under which it was let, and according to the official orders for work, without regard to the terms or rates of bid on which said contract was awarded, it being the intention of this act to ascertain the true and exact amount of labor performed and materials furnished under said contract, and to secure to the assignee of said contract just and equitable rates for each and every item of labor or materials, according to the regular established usages of the trade, as proposed by the secretary of state in 1860.

of printing required to examine contract, and compute amount of work done and materials furnished.

Kind of work.

Equitable settlement intended.

SECTION 2. When the gross amount of work and materials shall have been computed and tabulated in separate items, as provided in section one of this act, the commissioners of printing shall at once proceed to compute the same by the rates agreed upon by the said Sterling P. Rounds and Charles Holt, so far as said umpires may have agreed in reference to such rates

Commissioners to compute work done, at rates agreed upon by the umpires.

Computation of work on which nmpires fixed no rates.

and extend the sums total in tabular form. In case there shall have been items of work or materials furnished the state, on which said Rounds and Holt did not fix rates, of quantum meruit, as contemplated in said stipulation between the said Louis P. Harvey and the said assignee, the commissioners of printing shall proceed to ascertain the just and equitable rates that governed at or about the time of said settlement, in 1860, and the commissioners of printing may take the statements of disinterested parties, under oath, if they shall deem it proper, who are experts in the trade or profession to which the items of work or materials more nearly relate, and when such quantum meruit rates shall have been ascertained on such items of work as the said Rounds and Holt did not agree upon, then the commissioners of printing shall proceed to compute the same as provided in the case of items on which said Rounds and Holt did agree.

Balance to be struck between credit for work done, and debit for money paid.

SECTION 3. When all the items of work and material shall thus have been ascertained, and the gross value of all the work and materials established, the commissioners of printing shall compare the total value of all the work and materials so ascertained, with the total amount paid to the said assignee, by the state, or to any one by his order, including the sum of (\$5,000) five thousand dollars appropriated by the legislature in 1863, and if the gross sum so paid shall be less than the sum of the total value of all the work and materials, as aforesaid, the commissioners of printing shall report the amount of such excess, if any, to the next legislature, and the receipt given by the assignee in 1863, shall be construed to cover only the actual amount paid at that time under said appropriation, the state hereby waiving all legal technicalities in the premises, as well as the statutes of limitation that may have accrued to its legal advantage. But, if the sum or sums so heretofore paid to the said assignee, or to any one on his behalf, shall equal or exceed the sum total of the gross value of work and materials as aforesaid, then and in that event, the commissioners of printing shall find there is nothing due the said assignee, and he, the said assignee, shall have no further claim against the state, either in law or equity.

Balance, if any due assignee to be reported to the next legislature.

Assignee to file notice of agreement, etc.

SECTION 4. Before the commissioners of printing shall act in the premises, as provided in section one of this act, the assignee shall file a copy of the assignment he holds from the late George Hyer, duly attested, with the secretary of state, and shall also file with the secretary of state the following notice signed by

himself, both of which shall be filed away by the secretary of state as vouchers in the matter.

[Proper date.]

“Notice to the secretary of state. The undersigned hereby accepts the provisions of chapter (naming the proper number of this act), laws of 1874, as an equitable and just mode of settling his claim against the state of Wisconsin, as one of the modes proposed by himself, and that he will accept and abide by the award that may be rendered in pursuance of the same, whether the sum to be paid him shall be much, little or nothing, as a just, equitable and fair settlement with the state, of all claims of whatever nature or kind, either in law or in equity.”

SECTION 5. Should it be found that nothing is due the said assignee, as herein provided, then he, the said assignee, shall pay the cost, expenses and charges of the accountant, and he shall be required to give satisfactory security to the secretary of state to pay such costs and expenses, before any action is taken as contemplated by this act, but in case there be found a sum of money actually due said assignee, as herein provided, then and in that case, the secretary of state shall draw his warrant on the treasury, for all necessary expenses in the matter, not exceeding five dollars per day for the accountant.

When assignee to pay cost.

Shall give security therefor.

SECTION 6. It is hereby expressly declared by this act that no sum shall be paid to the said assignee until the next legislature shall ratify the award or finding, if any, of the same accountant and commissioners of public printing as herein provided.

Terms of payment.

SECTION 7. Before entering upon his duties, the accountant provided for in section 1 of this act, shall first take an oath to well and truly perform his duty as accountant, as herein provided, without partiality to either the assignee or the state.

Accountant to be sworn in.

SECTION 8. This act shall take effect and be in force from and after its passage.

Approved March 12, 1874.