

circuits in this state, in which the time allowed by law therefor has expired or shall expire without any issue either of law or of fact having been or being joined therein, it shall be lawful for the judge of said court, upon the application and motion of the plaintiff in such action, upon such notice to the adverse party as is now required by law in cases where notice of application for judgment is required, and without notice to the adverse party in cases where by law no notice is now required, to hear the testimony and proofs offered in such actions, and to sign a judgment or decree therein at any general or special term of court in his circuit, and the judgment or decree in any action so signed, together with the proofs and testimony taken therein, shall be filed in the office of the clerk of the court in which such action shall be pending, and such judgment shall have the same effect, and be enforced as if the same had been signed during a regular term of said court.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 6, 1872.

CHAPTER 39.

[Published March 13, 1872.]

AN ACT to provide for the erection and construction of an iron and stone fence to enclose the grounds of the state capitol.

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

Appointed commissioner to let contract.

SECTION 1. The governor is hereby appointed a commissioner to procure the erection and construction of an iron and stone fence to enclose the grounds of the state capitol, and he is authorized to let the same by contract to the lowest responsible bidder. The contract shall require the completion of the same on or before the first day of December, A. D. 1873.

May advertise for and decide upon plans.

SECTION 2. The governor is hereby authorized to advertise for plans for an iron and stone fence to enclose the grounds of the state capitol, and after having

received and examined the plans submitted, may determine and decide upon the plan which in his judgment is the most durable and best adapted for the purposes aforesaid. The governor shall require that all plans submitted be accompanied with detailed statements of the cost of such fence in accordance with the plan proposed.

SECTION 3. The governor, after having adopted the plan for a fence as provided, shall cause to be provided estimates and specifications in detail, and all necessary drawings and certificates of the plans adopted, and thereupon advertise for sealed proposals for the construction of said fence according to the plans, specifications and exhibits thus proposed, and upon the day fixed by such advertisement, shall proceed to open the bids received, and award the contract for the construction of said fence, to the lowest and best bidder; and in addition to the requirements of said act, he shall require the contractor to give reasonable security for the prompt and faithful prosecution and completion of the work under said contract, within the time specified, and shall reserve the right and have the power, if the contractor shall neglect or abandon the work, or fail to prosecute the same with such diligence and dispatch as will reasonably secure the completion of the work in the time specified in the contract, to declare such contract abandoned and forfeited, and shall relet the same to such other responsible person or persons as will secure the completion of the work by the time specified in this act, and no liabilities shall exist on the part of the state for any service rendered under or upon any contract so abandoned: *provided*, that in case it shall become necessary to relet the work, the governor shall relet to the lowest bidder, in the same manner as provided in section one of this act.

SECTION 4. For the payment of the work as the same progresses under the contract, there is hereby appropriated out of the state treasury a sum sufficient to defray the cost of completing the fence: *provided*, that the entire cost of fully completing the fence shall not exceed the sum of forty thousand dollars; *and, provided, further*, that not more than twenty-five thousand dollars shall be paid during the year 1872, the remainder, not to exceed fifteen thousand dollars, to be paid in 1873, in the manner provided by this act.

May provide estimates and specifications and advertise for bids.

Contractor to give security.

Appropriated.

May appoint person to prepare plans.

SECTION 5. The governor may appoint a suitable person to prepare plans, estimates and exhibits required by this act to be made, and to superintend the construction of the work authorized, and the duties of such superintendent, so far as they are applicable, and the compensation he shall receive, shall be such as may be agreed upon by the governor.

Superintendent to report progress of work.

SECTION 6. Once in each month the superintendent shall estimate and report to the said governor the amount of work performed and material furnished under the contract, for the completion of the fence, and if the governor approve of the same, he shall certify eighty-five per centum thereof to the secretary of state, who shall draw his warrant on the state treasurer for the same. Upon the completion and acceptance of the work under such contract, the remaining fifteen per centum shall be certified and paid in like manner.

Shall not receive bonus from contractor.

SECTION 7. The superintendent employed under this act is prohibited from receiving, directly or indirectly, any commission, bonus, award or compensation from the contractor or contractors who may construct the work contemplated by this act, or of any part thereof, or of any one in the employ of or furnishing materials to such contractor or contractors.

May be discharged.

SECTION 8. In case of the violation of the foregoing section, the superintendent shall be discharged, and shall forfeit all claim and right to compensation for services rendered, up to the time of such discharge.

Construction of act.

SECTION 9. This act shall not be construed so as to permit the governor to let the contract herein authorized for a larger sum than forty thousand dollars, payable as provided by this act, and he shall have the right and it shall be his duty to reject all bids which in his judgment exceed a just compensation for building said fence.

SECTION 10. This act shall take effect and be in force from and after its passage and publication.

Approved March 7, 1872.