24th Congress, 1st Session. [Rep. No. 567.] Ho. of Reps.

91

GAMALIEL E. SMITH.

April 12, 1836.
Read, and laid upon the table.

Mr. E. Whittlesey, from the Committee of Claims made the following

REPORT:

The Committee of Claims, to which was referred the petition of Gamaliel E. Smith, report:

That the petitioner says, in the summer of 1829 he entered into a contract with the United States to build a light-house and dwelling-house on Mount Desert Rock, in the State of Maine; that he made such progress in the work as the weather would permit, but from some cause was not permitted to complete the work the next season, and a contract was made with another, who did not finish the work as soon as the petitioner intended to have done it. He says he has not received any thing for his labor; that he has written several times to know who realized the profits of his work, and supposes his letters have miscarried, or have been neglected, as he has had no answer. He proposes, in order that the facts may be fully developed, that a member of Congress set as a tribunal during the next summer, at the expense of the petitioner, to examine the evidence, and report the facts to Congress; or that if it should be considered improper, he then asks that he may be compensated according to the value of his work.

The committee sent the petition to the Secretary of the Treasury for information. The Fifth Auditor reported, that the petition had been referred at the last session, by the Hon. Mr. McIntire, then a member of the committee, when the papers in the Department were copied and furnished to the committee; as these papers were not found, the Fifth Auditor again sent copies of them. They are referred to, and made a part of this report.

The contract made with Mr. Smith was not returned to the Fifth Auditor's office. It appears by the letter addressed by the Fifth Auditor to Mr. McIntire, that the consideration to be paid Mr. Smith was $1,500.

A copy of the contract made with Mr. Berry is furnished to the committee, by which it appears Mr. Berry was to receive $2,770 for the same work.

The reason assigned for rescinding Mr. Smith's contract was that he did not exhibit any disposition to complete his contract, and that he had not the ability to do it.

As Mr. Smith complains he has been kept in the dark in this transaction, the committee will not comment on the testimony, but direct its publication, that Mr. Smith may have an opportunity to see it.

The following resolution is submitted:

Resolved, The petitioner is not entitled to relief.

Blair & Rives, printers.

No. 1.

DISTRICT OF PORTLAND AND FALMOUTH,
Collector's Office, Portland, Oct. 3, 1829.

SIR: I have received yours from Mount Desert Rock, in which you say that Mr. Smith has not got the cellar wall finished; that being the case, it will be impossible for him to get the building done this season, for it will not do to have the wall laid after the 15th of this month; and if the walls of the buildings are not completed, or nearly so, by that time, it will be useless to lay them up this season, as the frost will destroy the work laid up after the 15th, and if (they) cannot be finished, you will return to Portland immediately after the fifteenth.

JOHN CHANDLER,
Collector and Superin't of light-houses in Maine.

Mr. LORENZO TOWLE,
Mount Desert Rock.

No. 2.

PORTLAND, *October* 9, 1829.

SIR: Agreeably to my contract with you to superintend the light-house, dwelling-house, &c. which was to be built at Mount Desert Rock, by Gamaliel E. Smith, Esq. I have attended to that business, and submit the following report:

I arrived at the Rock on the 23d of August, which was about one week after Mr. Smith arrived at that place; he was then absent, but had left six or seven men to be employed in splitting and removing the stone, in order to get the depth of the cellar; but they could do little to that purpose, not being furnished with suitable tools.

Mr. Smith returned on the 27th, at which time we expected he would bring all his materials for the buildings; but he landed nothing, and left again the same day. He returned again September 1st, and landed two casks of lime, and a small quantity of sand, and left us again. At this time his men had dug a part of the celler to its depth, and I, with their assistance, laid about one-third part of the cellar wall, which was all that could be done until the remaining part was dug or blown, but this they could not do for want of proper tools.

Mr. Smith came again September 10, and landed nine casks of lime and a few plank; he left the Rock the same day, and took with him all his men except two, which he left to keep possession. I waited for his return until the 3d of October, at which time I left the rock, believing that if he should return it would be impossible for him to finish the work at the time allowed by his contract.

LORENZO TOWLE,
Superintendent.

General JOHN CHANDLER,
Portland.

DISTRICT OF PORTLAND AND FALMOUTH,
Collector's Office, Portland, Oct 13, 1829.

SIR: By the report of Mr. Lorenzo Towle, who was sent to Mount Desert Rock to superintend the building of the light-house and dwelling-house, &c. which you contracted to build at that place, it appears that the cellar was not excavated when he left the Rock on the 3d instant; and from his statement of the progress which you have made in the work, and from what I learn from other correct sources, there can be no probability of the work being done for months, and perhaps for years to come, if ever. It is, therefore, proper that I should state to you that no stone and mortar work will be accepted, if laid after the 15th day of the present October, the time when the whole work should have been completed. You will judge of the propriety of doing any more work after this notice. The Secretary of the Treasury will decide whether you will be allowed to go on with the work, under the contract, after the fifteenth of October, instant. I shall state to him the situation of the work, and the improbability of the work ever being done as it ought to be.

JOHN CHANDLER,
Collector and Sup't of light-houses in Maine.

GAMALIEL E. SMITH, Esq.
Mount Desert Rock.

No. 2.

DISTRICT OF PORTLAND AND FALMOUTH,
Collector's Office, Portland, Oct. 19, 1829.

SIR: Yours of the 14th instant has just been received, by which it appears that Gamaliel E. Smith has applied to the Secretary of the Treasury to have the time for building the light-house, dwelling-house, &c. on Mount Desert Rock, extended to the twentieth of June next. And you say, that if I should be of the opinion that the contractor has not unnecessarily delayed the work hitherto, and no material inconvenience will be experienced by the public, from the postponement of their completion, I may extend the time for the execution of the contract to the twentieth of June next, as requested; *provided*, however, the sureties of the contractor will give their written assent to the measure. The erection of the buildings must necessarily be postponed, as they cannot now be completed this season, and I very much doubt whether they will ever be done by him in the manner they ought to be. He appears to understand nothing of the work, and has scarcely begun it. I have kept a man there to superintend the work until the third instant, when he left the Rock. Smith had been gone weeks, and left only two men, and they could do nothing of use, and the superintendent left in consequence. He informs me that there was not stone enough split to come to more than the money he received for superintending the work; and by his written report, a copy of which is herewith transmitted, it appears that about one-third part of the cellar wall was laid, (principally by himself) and that no more could be laid until dug or blown deeper. Indeed, from all Smith's movements, I am satisfied that there is little prospect of his fulfilling his contract in

years, and that the work would never be well done. Finding, from all accounts received from that quarter, that little or nothing was doing at the Rock, and knowing that stone work done after the middle of October would be entirely useless, I wrote Mr. Towle, the person sent to superintend the work, a letter, a copy of which is also herewith transmitted, but he had left the Rock the day on which I wrote, and arrived home without receiving the letter. Not knowing but what Smith might return and lay some more of the stone, which work would be lost, I wrote him on the thirteenth instant, a copy of which letter is also herewith transmitted. Under these circumstances, I do not think it proper for me to extend the time, but will obey such instructions as I may receive from time to time from the Department.

Perhaps I ought to state that Smith's proposals were so much lower than it is possible the work could be done for, and knowing the character of the man, I doubted his intention of ever closing the contract when he put in his proposals. I did suppose that he expected that the Government would doubt his fulfilling the contract, and not accept his proposals, and then he could blaze it abroad that his proposals were rejected because he was opposed to the administration, and that twice or three times the sum was given to a friend of the administration for erecting the building more than his offer. I thought it best, however, that his proposals should be accepted. I do not expect he will ever do the work as it should be done, and he will probably follow up with his petition for a further compensation. He has given a great deal of trouble, and will probably continue to give more; and I think it best for the Government, and for him too, that he should have nothing further to do with the erection of the buildings.

The above is a true extract of a letter to the Fifth Auditor of the Treasury.

JOHN CHANDLER,
Collector, and Super't of light-houses in Maine.

Extract of a letter from John Chandler, collector and superintendent of light-houses in Maine, dated March 12, 1830, *to the Fifth Auditor of the Treasury.*

DISTRICT OF PORTLAND AND FALMOUTH,
Collector's Office, Portland, March 12, 1830.

SIR: In pursuance of your instructions of the 19th of February last, I have contracted with Joseph Berry, (the man who built the light-house on Hendrick's Head last year,) to build the light-house on Mount Desert Rock, to have it done and completed on or before the 15th of July next, he being the next lowest bidder to Gamaliel E. Smith, the last year; his offer last year was $2,770, for which sum he now contracts to build it; but would not have built it for that sum now had not the cellar been mostly excavated, and some stone split, by Smith. Enough is saved, I presume, the work done by Smith, to reimburse the sum paid out to the man who superintended the work there last year. I am confident it was much the best way to let Berry take it at his last year's offer; for, upon another advertisement, I am satisfied it would have cost more, as it is perhaps the worst and most difficult place to build of any place where one has been built on our coast.

No. 3.

TREASURY DEPARTMENT.
Fifth Auditor's Office, October 14, 1829.

SIR: A letter has been received by the Secretary of the Treasury, and referred to me, from Gamaliel E. Smith, the contractor for building the light-house on Mount Desert Rock, in which he requests the consent of this Department to an extension of the time for completing the work, to the 20th June next, the weather being found too tempestuous at this advanced season of the year, as he alleges, to admit of his landing materials, and finishing the work by the time stipulated.

If you should be of opinion that the contractor has not unnecessarily delayed the work hitherto, and no material inconvenience will be experienced by the public from the postponement of its completion, you will extend the time for the execution of the contract, to the 20th June next, as requested, provided, however, the sureties of the contractor will give their written assent to the measure.

I am, &c.
S. PLEASONTON.
Fifth Auditor and Act'g Com'r of the Revenue.

JOHN CHANDLER, Esq.
Supt. of light-houses, Portland, Maine.

No. 4.

TREASURY DEPARTMENT.
Fifth Auditor's Office, February 18, 1830.

SIR: The Secretary of the Treasury has referred to me your letter of the 13th instant, requesting, on behalf of Gamaliel E. Smith, an extension of the time for building the light-house on Mount Desert Rock.

On a former application of this gentleman, in October last, for an extension of time, I referred the subject to General Chandler, the superintendent, who reported that Mr. Smith had scarcely begun the work on the 15th October, when, by the contract, it ought to have been finished; that there was but little prospect of his fulfilling his contract in years, and that, in his, the superintendent's, opinion, the work would never be well done.

As by the negligence of the contractor, to say nothing of the unfavorable prospect of having the work done hereafter, he forfeited the contract and all claim to the indulgence of the Government, it has been determined to enter into a contract with some other person more likely to accomplish the object of the Government, and the only indulgence it can extend towards him, therefore, is to omit to bring suit against him for a breach of his engagement, by which an injury has been done to the public service. Of this you will be pleased to apprise Mr Smith.

S. PLEASONTON.
Fifth Auditor and Act'g Com'r of the Revenue.

Hon. JOHN ANDERSON,
House of Representatives U. S.

No. 5.

TREASURY DEPARTMENT,
Fifth Auditor's Office, February 19, 1830.

SIR: Mr. Gamaliel E. Smith, through a member of Congress, from Maine, has recently made a written application for an extension of time in erecting the light-house, &c. at Mount Desert Rock. So far from extending the time to him, who manifested so little disposition to do the work last summer, and in fact had done so little when the time expired, it has been determined by the Secretary of the Treasury and myself to enter into a contract with some other person for completing the building in July or August next. You will, therefore, if you judge proper, enter into a contract with the person who made the next lowest offer to Smith, when proposals were before received, or you will, if you consider it more advisable, again advertise for proposals for two or three weeks, and accept the lowest offer, without referring the proposal to this office, which would consume more time than we can now spare.

I am, &c.
S. PLEASONTON,
Fifth Auditor and Act'g Com'r of the Revenue.

JOHN CHANDLER, Esq.
Supt. of light-houses, Portland, Maine.

No. 6.

TREASURY DEPARTMENT,
Fifth Auditor's Office, January 24, 1835.

SIR: In relation to the petition of Gamaliel E. Smith, enclosed in a letter from Mr. McIntire, of the Committee of Claims, of the House of Representatives, of the 21st instant, I have the honor to state, that proposals having been invited by advertisement, to build a light-house on Mount Desert Rock, in the State of Maine, and Mr. Smith being the lowest bidder, ($1,500) the superintendent, General Chandler, was directed by this office, on the 22d June, 1829, to enter into a contract with him for that purpose; the buildings to be completed on the 15th October, following; that on the 5th October, 1829, Mr. Smith applied for an extension of the time for completing the buildings, to the 20th June, 1830; that on the 14th October, General Chandler was authorized to extend the time accordingly, *provided he should be of opinion that the contractor had not unnecessarily delayed the work theretofore, and no material inconvenience would be experienced by the public from the postponement;* that General Chandler declined to prolong the time, for the reasons which will appear in his letter and its enclosures, of which copies are enclosed; that on the 19th February, 1830, General Chandler was written to by this office, that Mr. Smith, through a member of Congress, from Maine, had recently renewed his application for an extension of time, in erecting the light-house, &c. and that it had been determined (the Secretary of the Treasury concurring) that as so small a portion of the work had been done by Mr Smith, and so little disposition manifested to complete it, to enter into a contract

with the next lowest bidder; that a contract was accordingly entered into with Jeremiah Berry, and the building completed agreeably thereto, for $2,770, as explained in a letter from General Chandler, a copy of which is also enclosed.

It will be seen by General Chandler's letters, that the materials furnished and work done by Mr. Smith were about equal to the sum paid by the United States to a superintendent, who repaired to the spot, but whose services were rendered useless by the neglect of Mr. Smith to proceed with the work.

I have the honor, &c.

S. PLEASONTON,

Fifth Auditor and Act'g Com'r of the Revenue.

Hon. SECRETARY *of the Treasury.*