

House File 435

APPLICATION OF H. C. METCALF, JOHN McKEAN ET AL.

To the General Assembly of Iowa—Gentlemen: Your petitioners respectfully and earnestly ask your attention to the following facts, believing that the claims of those who acted in good faith with the duly constituted authorities of the state cannot longer be ignored:

AN ACT TO PERMANENTLY LOCATE AND PROVIDE FOR THE ERECTION AND CONTROL OF AN ADDITIONAL PENITENTIARY, WAS PASSED BY THE FOURTEENTH GENERAL ASSEMBLY, AND WAS APPROVED APRIL 12TH, 1872.

It enacted "that there shall be and is hereby permanently established at or near the stone quarries near Anamosa, Iowa, an Additional Penitentiary." Three commissioners were chosen by the legislature, to purchase a quarry and, without expense to the state, procure not less than seventy acres of ground, and also to superintend the erection thereon of a suitable building for the penitentiary. Some of the citizens of Anamosa raised money by subscription and purchased seventy-one acres of land, which was a larger amount than was required by section 4, chapter 43, of said act. That sixty-one acres of the land so purchased were valuable land, being situate on and adjoining the Dubuque Southwestern railroad, and also adjoining the city of Anamosa. That ten acres of the seventy-one acres were in the city limits, and mostly laid out in blocks and lots, and also of great value. That all of said land was duly deeded to the state of Iowa. Said commissioners after their appointment, to-wit: on or about the 7th of May, 1872, came to Anamosa for the purpose of selecting a site for the location of the penitentiary, and also to select the required amount of land to be donated by said act—said land so selected was to be suitable "for agricultural, horticultural and grazing purposes."

After some days of examination and a number of meetings with the citizens of Anamosa, in reference to what ground should be selected; finally determined and notified the citizens of Anamosa that the seventy-one acres before described would be ample for all purposes; and that the ten acres situate within the city limits, was where the penitentiary should and would be located, and that said ten acres was amply sufficient for the penitentiary wall, buildings, etc., and when the citizens of Anamosa had secured the title and vested the same in the state, the law had been fully complied with, and the commissioners would immediately erect a stockade and suitable buildings.

The commissioners then adjourned and went east for the purpose of informing themselves as to the best plan of erecting such a penitentiary, as contemplated by said act. After some

week's absence returned to Anamosa, and after the citizens had secured the title to said land and vested the same in the state, and, in fact, more land than the law or the commissioners required, said commissioners requested the citizens of Anamosa to furnish the state with five acres more land than what they had before determined as ample for all purposes, and five acres more than what had been deeded to the state by their request; and in pursuance of this request, the following agreement was entered into by H. C. Metcalf and John McKean, first party, and the state of Iowa, second party. Said agreement is in the following language, to-wit: "Know all men by these presents, that the undersigned do agree to cause to be conveyed to the state of Iowa, within two years from this date, block No. two (2), and south half of block No. three (3), and the north half of block No. one (1), in Gibbs' addition to the town of Anamosa, Iowa, or cause the title thereof to vest in the state of Iowa, in case the state require the same, and pay therefor out of the funds of the state, two thousand dollars. The intention being to furnish said grounds to the state, for grounds for the Anamosa penitentiary, in case the same is required and paid for by the state for that purpose."

[Signed]

H. C. METCALF.

June 15th, 1872.

JOHN McKEAN.

Said agreement recorded on page 26, Commissioners' Records. On this 15th day of June, 1872, the Penitentiary was located on block seven (7), south half of block six (6), north half of block eight (8), Gibbs' addition to the town of Anamosa, and on six acres adjoining the same on the west. On the same day Commissioners accepted the proposition of N. G. Sales, and purchased a quarry of him, paying therefor fifteen thousand dollars. June 29, ordered that P. Holtenbeck, freight agent, be allowed \$140 for freight on lumber to build stockade. Young & Co., of Clinton, to be paid for lumber for stockade, \$1,090.50. Salaries to themselves, \$1,399.01. Garber, unloading lumber, \$24. July 31, sundry bills allowed, \$2,937.34. August 1, sundries, \$132. Total amount paid out, \$20,622.85, and after the payment of said last amount, and six weeks after the citizens of Anamosa had furnished all the land required by the act, and more than required, and after locating the penitentiary and paying out the sum aforesaid, after the execution of the agreement before described, and recording the same, and after the stockade was completed, or nearly so, said commissioners represented that, by a close examination of the law, in their opinion, they were not authorized to make the agreement with H. C. Metcalf and John McKean, but it became necessary for the state to have the blocks and lots described in said contract; and if the citizens of the town would procure a deed to the same and vest the title in the state, they would recommend to the next legislature to reimburse and fully indemnify such person or persons who would be at the expense of obtaining said land and vesting the title in the state. That said commissioners stated to all of the parties hereinafter named, before said parties agreed to furnish

the title to said land, that said parties would never lose a dollar, that the legislature would amply compensate them if the title was obtained: that it became necessary for the state to have the land, and that they would not be afraid to warrant the payment by the legislature of all sums expended for the title to said land: that as there was some difficulty in obtaining title, parties residing here could procure the same in much shorter time and at less expense than the commissioners or the state, and if this was not done the work on the penitentiary, which had long before been commenced, would have to stop at great loss and damage to the state.

In pursuance of the request aforesaid, to furnish the extra amount of land, the title of which was in different persons, some in minors, and various lots belonging to different parties, whose whereabouts were then unknown, and in consideration of the promises made by the commissioners, and relying upon their representing that they would save us harmless, and that they would recommend the legislature at its next session to reimburse and fully pay all cost and expense incurred in vesting the title to said land in the state (which recommendation was made as promised by them); and in view of the fact that the work on the penitentiary would have to be stopped, and firmly believing that the legislature would fully indemnify those persons who should obtain the title to the extra land, and in view of the further fact that the commissioners and other agents of the state well understood that the citizens of Anamosa had liberally, and many of them beyond their means, contributed their money and time in procuring the title to the seventy-one acres, and in view of all the foregoing facts, the following-named persons, to-wit, S. T. Pierce, B. F. Shaw, E. C. Holt, Chauncey French, R. N. Fowler, J. Holt, Alderman & Cunningham, H. C. Metcalf, S. B. Tucker, E. Blakeslee, Charles Cline, John McKean, undertook and did furnish the title to the blocks and lots required, and vested the title to the same in the state, at an actual expense of \$2,059.20.

We, the undersigned, ex-commissioners of the Anamosa penitentiary, having carefully read over the above statement and application, do certify that the statements therein contained are true of our own personal knowledge, and we do earnestly recommend and request the legislature to compensate and fully indemnify the above-named parties for all moneys paid out by them in the additional purchase of said blocks and lots before described in the contract with H. C. Metcalf and John McKean; believing, and knowing, that to indemnify said parties is but simple justice.

MARTIN HEISEY.

F. L. DOWNING.

C. H. LULL.

I, John S. Stacy, who was the attorney for the state in condemnation of certain lots in blocks referred to in foregoing application, do certify that said lots and blocks acquired by par-

ties above named were an important and necessary acquisition for prison purposes, and from my personal knowledge of the facts, as well as information obtained from reliable sources, I believe that the parties who furnished the title to said lots and blocks to the state should have the money they have expended for said land refunded to them. And I further state, from my knowledge of the facts, that should the state pay said parties what they have actually paid out for said land, it would be but simple justice, and nothing more than good faith requires of the state.

JOHN S. STACY.

I, A. E. Martin, present warden of the Anamosa penitentiary, do hereby certify that the blocks and lots described in the foregoing application, to-wit, the extra five acres over and above the seventy-one acres donated to the state by the citizens of Anamosa, were absolutely necessary for prison purposes, and on said extra five acres are located the present buildings, to-wit, all the buildings owned by the state of Iowa for additional penitentiary. And from what I can learn from the records in my possession, and from other reliable sources, the claim for compensation set forth in the above application is just, and should be allowed.

A. E. MARTIN, *Warden*.

See Wm. Ure's minority report in state documentary reports, 1874, p. 54, who was one of the commissioners of the additional penitentiary, in which report is used the following language: "The agreement entered into on the 3d day of August, 1872, whereby the title to block 2, and parts of lots 1 and 2, in Gibbs' addition to the town of Anamosa, was secured to the state, was entered into in the belief that thereby the best interest of the state would be subserved: an eligible site for the main buildings thus secured; and we would most respectfully recommend that an appropriation be made by the general assembly to reimburse to the parties procuring such title the expense as provided for in said agreement."

STATEMENT.

ANAMOSA, IOWA, February 5th, 1880.

Amounts paid by H. C. Metcalf for additional land procured by him for the penitentiary at Anamosa, Iowa:

July 11th, 1872, paid Orrin Sage for block lots	8550.00
July 11th, 1872, paid telegraphing Sage in regard to purchase of said lots	17.00
Interest on above amount at 6 per cent to Feb. 1, 1880	256.94—8823.94
July 16th, 1872, paid Mrs. Boil for lots	500.00
July 16th, 1872, paid for one lot	100.00
July 26th, 1872, paid expenses to Waterloo, Iowa, to obtain title and perfect	

purchase of said lot.....	10.00
Interest on above at 6 per cent to Feb. 1, 1880.....	275.77—\$885.77
July 30th, 1872, paid expenses of J. L. Sheean to Wisconsin to obtain title to lots.....	10.00
Interest at 6 per cent to Feb. 1, 1880.....	4.50—\$ 14.50
May 13th, 1878, paid P. O. Babcock, sheriff, amount apraisement on lots con- demned by state of Iowa, as shown by his receipts of even date.. . . .	303.73
Interest on same at 6 per cent to Feb. 1, 1880.. . . .	31.26—\$334.99
	—————
Total.....	\$2,059.20

MR. SPEAKER :

Your Committee on Claims, to whom was referred house file No. 435, a bill for an act reimbursing H. C. Metcalf and others for money paid for the state in the purchase of lots and lands at the additional penitentiary, beg leave to report that they have had the same under consideration, and have instructed me to report the same back to the house with the recommendation that it do pass.

R. D. STEPHENS, *Chairman.*

Ordered passed on file.

HOUSE FILE NO. 435.]

[BY YORAN.

A BILL

FOR AN ACT TO REIMBURSE H. C. METCALF FOR MONEY PAID FOR LOTS AND LAND FOR THE USE OF THE STATE AT THE ADDITIONAL PENITENTIARY AT ANAMOSA.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That there is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of two thousand and fifty-nine dollars and twenty cents (\$2,059.20), for reimbursing H. C. Metcalf for money paid in behalf of the state, as per the following statement:

STATEMENT.

ANAMOSA, IOWA, February 5th, 1880.

7	Amounts paid by H. C. Metcalf for additional land procured by him for the penitentiary at	
8	Anamosa, Iowa:	
9	July 11th, 1872, paid Orrin Sage for block lots.	\$550.00
10	July 11th, 1872, paid telegraphing Sage in regard to purchase of said lots.	17.00
11	Interest on above amount at 6 per cent to Feb. 1, 1880.	256.94—\$823.94
12	July 16th, 1872, paid Mrs. Boil for lots.	500.00
13	July 16th, 1872, paid for one lot.	100.00
14	July 26th, 1872, paid expenses to Waterloo, Iowa, to obtain title and perfect	
15	purchase of said lot.	10.00

16	Interest on above at 6 per cent to Feb. 1, 1880.....	275.77—\$885.77
17	July 30th, 1872, paid expenses of J. L. Sheean to Wisconsin to obtain title to	
18	lots.....	10.00
19	Interest at 6 per cent to Feb. 1, 1880....	4.50—\$ 14.50
20	May 13th, 1878, paid P. O. Babcock, sheriff, amount apraisement on lots con-	
21	demned by state of Iowa, as shown by his receipts of even date.....	303.73
22	Interest on same at 6 per cent to Feb. 1, 1880.....	31.26—\$334.99
23	Total.....	<u>\$2,059.20</u>

SEC. 2. This act, being of immediate importance, shall take effect from and after its publication in the *Iowa State Register* and *Leader*, newspapers published at Des Moines, Iowa.