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Vermont State Archives

**Veto Message: Governor Slade
1845 (H.36)**

An act to pay Guy C. Sampson the sum therein mentioned.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 5, 1845

From: A message from the House of Representatives, by Mr. Merrill, their Clerk:

Mr. President: — I am directed to announce to the Senate, that the Governor has returned to the House of Representatives the bill **(H. 36)** entitled "An act to pay Guy C. Sampson the sum therein mentioned," which has heretofore passed the two Houses, together with his objections to giving the same his approbation and signature, and that the House have reconsidered the said bill, and resolved again to pass the same; and I am further directed to transmit the said bill, with the objections of the Governor thereto, to the Senate, for their action.

The objections of the Governor to the bill entitled "An act to pay Guy C. Sampson the sum therein mentioned," were thereupon read, and are as follows;

To the House of Representatives:

I have received and considered a bill presented to me for approval, entitled "An act to pay Guy C. Sampson the sum therein mentioned," and herewith return the same, with my objections thereto, to the House of Representatives, in which it originated.

It is declared in the bill that the sum therein directed to be paid, is "for labor and expenses in preparing a digested Index of all such portions of the Revised Statutes passed in one thousand eight hundred and thirty-nine, as have been altered or repealed, and all

public acts passed since such revision, with the public laws passed at the session of the Legislature of this State, for one thousand eight hundred and forty-four."

It appears that the service in question was performed by Mr. Sampson, under an appointment made by the Governor, in pursuance of the following resolution, adopted at the last session of the General Assembly: "*Resolved, by the Senate and House of Representatives, That the Governor be requested to appoint some person to make a digested Index of all such portions of the Revised Statutes passed in 1839, as have been repealed or altered, and all public acts of this State passed since said revision, with the public laws passed at the present session of this Legislature, and cause the same to be published, with the laws passed at this session. Provided, the whole expense of publishing, with compiling the same, shall not exceed one hundred dollars, — and provided it shall not cause a delay in the publication of the laws passed at the present session, of more than ten days.*"

It will be observed, on an inspection of the resolution, that the Index was to be published with the laws of the session of 1844. It became the duty, therefore, of Mr. Sampson, to furnish an index in season to be in the hands of the person who had contracted to print the laws, by the time he was, by his contract, to have them ready for delivery— which it appears was on the first of December.

As the Governor was to cause the Index to be published, it was, of course, to be sent to him, when completed, — and that, for the obvious reason that he would be held responsible (as by the resolution it was evidently intended he should be,) for its correctness. The General Assembly could not have intended to impose on him the duty of publishing *any* Index which might be furnished him by the person he should appoint, because it would have subjected him to the hazard of severe censure for sending forth an erroneous or defective Index, besides suspending the public interest upon the same hazard. The Legislature evidently intended the double security of ordinary care in making the appointment, and the subsequent supervision of the Governor himself— else they would have provided that the person appointed to prepare the Index, and not the Governor, should cause it to be

published.

But not withstanding this obvious and necessary construction, Mr. Sampson took upon himself to determine that, after making the appointment, I had nothing more to do with the matter; and that the Index was not to be sent to me, but to the Secretary of State; and that *he* was bound to see that it was published with the laws — their publication being subject to his superintendence. He accordingly sent the Index to the Secretary; but not until the 28th of November, two days, only, before it was to go into the hands of the printer for publication. The Secretary, on the 29th, very properly sent it to me. On examining a few pages, I found several errors in the references to the pamphlet laws published since the revision — the appropriate references being to the years of their passage, and the pages of the pamphlets in which they were published — which in numerous cases were found erroneous in one or both these particulars. Great errors and deficiencies were also found in the descriptive part of the Index, while to a great number of important unrepealed sections of laws, there was no reference whatever. Of sections not thus noticed, I have found more than thirty, on a recent examination of about one half the Index.

The errors to which I have referred, were specified in a paper accompanying my communication on this subject, to the Senate, on the 3d instant; with which I also sent the Index itself, with a request that it might be preserved in the archives of that body, as appropriate evidence of my fidelity to the trust committed to me. The Index and accompanying explanation were referred to the Committee of Claims of the Senate, before whom I was requested to appear, and by whom it was admitted that my specification of errors was correct, and that the Index, as it came to my hands, was not such as should have been published.

I did not publish the Index; and but for the previous preparation of another without my authority, which at that juncture I decided to accept, none would have been published.

But it has been contended, that the Index should have been returned to Mr. Sampson for correction; and that because it was

not, he is entitled to compensation for making it, though it was fatally defective. To this position I will devote a moment's attention.

Upon examining the Index on the 29th of November — the day that I received it — I not only saw that I could not order its publication, but that if I should return it, I could not trust any corrections which Mr. Sampson might make, without a subsequent inspection of it, since very gross errors had escaped him in a copy prepared with apparent care, for the press. And besides, as he had denied my right of supervision in the case, I had reason to doubt whether he would submit the Index to me after he should have attempted to correct it. The proper corrections would, moreover, have involved the necessity of re-constructing, and re-drafting it, which, it was apparent, could not be effected, and the whole submitted to me, and necessary time allowed me for its re-examination, before the expiration of the ten days when the printing of it should be *completed* — much less could all this have been done within the twenty-four hours which only remained between my examination of it, and the first of December. Indeed, it could not have even reached Mr. Sampson — his residence then being at Montpelier — about seventy miles distant from me-- until the first of December,-- the day when it should have been in the hands of the printer at Burlington, in a condition to be published.

I did not, therefore, return it to him; and I am unable to see upon what principal my omission to do it can lay a foundation for a claim on his part, for compensation. It is evident that my return of it could not have resulted in its publication with the laws, which, before it could have reached the hands of the printer, would have been completed, and in the process of delivery to the Sheriffs for distribution, and, of course, that even if corrected, it could not have been made available to the State in the way contemplated in the Resolution under which it was prepared — namely, its publication with the laws of the last session.

The truth is, it was the duty of Mr. Sampson to prepare an *Index* — not a defective one, but an *Index fit to be published* — in such season that it might have been placed in the hands of the printer by the first of December. Having failed to do this, he failed to do

the duty which, by accepting the appointment, he contracted to perform. And, having thus failed, I am unable to see on what principle applicable to the ordinary affairs of life, he can be entitled to compensation; — how, indeed, he is more entitled to it than one would be who, having engaged to furnish an article of manufacture by a given time, furnished a defective one, unadapted to the purposes of its construction.

But Mr. Sampson claims that, having performed labor, under an Executive appointment, it is hard for him to lose it, and that he needs compensation for it. But the question is not one of necessity, but of principle; — not whether labor was performed, but whether it was worth anything, — not whether the article, which was the product of that labor, could have been re-produced in a more perfect form at some subsequent time, but whether it could have been re-produced within the time when it must have been forthcoming in a state of reasonable perfection, in order to have served the purpose of the Legislature in providing for it.

Pressed by this view of the matter, Mr. Sampson has even contended that though the Index might have been imperfect, and could not have been made otherwise in season for publication with the laws of last year, yet it should, (to use the language of his letter to me of the 5th of February last,) have been "sent back for correction," and "have rested until 1845 for the action of the Legislature, as (to continue his language) the proviso says, — in case it shall not delay the printing of the laws more than ten days — plainly implying," (still to continue in his language,) "that there might not be time, and then the Index need not be published."

Such has been Mr. Sampson's reasoning on the subject — reasoning as defective as was the Index he sent me for publication.

I admit that I made a mistake in appointing him to the service in question — though it was done upon what I deemed a satisfactory recommendation; but I cannot admit that he is entitled to compensation for work acknowledged to be worthless, or that he could justly claim to be allowed until the present session of the Legislature to make it what it should be.

For the reasons thus stated, I feel constrained to perform the unpleasant duty of declining to approve and sign the bill allowing Mr. Sampson sixty dollars for the service in question, and to return it to the House of Representatives for their re-consideration. I need hardly say that I feel no little embarrassment in the performance of this duty, because the exercise of the power of thus returning bills places the Chief Magistrate in a position of conflict with the representatives of the people. I should feel an additional embarrassment, from the consideration that my own agency has been concerned in the transaction in question, had I not understood that the Committee of Claims in both Houses have especially exonerated me from all blame in this matter. I am left, therefore, to a consideration of the simple question of the justice of the claim, to which I am asked to give the sanction and approval. On this point I have, with perfect freedom, and yet with perfect respect for the General Assembly, expressed the conviction of my own judgment, and the grounds of them.

I will only add, that I perform this act with the less reluctance, because it still leaves the bill within the control of the bare majorities of the Senate and House of Representatives, with whom I am very happy to be permitted to leave the responsibility of giving the effect of law to an act which my own judgment cannot approve.

WILLIAM SLADE,
Governor

Governor's Veto Overridden H.36, 1845

Governor's veto overridden in the House:
Yeas: 120 **Nays: 26**

Governor's veto overridden in the Senate:
Yeas: 19 **Nays: 7**

Sources: *Journal of the Senate*, November 5, 1845 (pages 138-143); *Journal of House* 1845 (pages 228-231)