

MESSAGE
OF THE
PRESIDENT OF THE UNITED STATES,
COMMUNICATING,

In compliance with a resolution of the Senate, information in relation to the marble columns for the Capitol extension.

MARCH 19, 1860.—Read and referred to the Committee on Public Buildings and Grounds.
Motion to print referred to the Committee on Printing.

MARCH 21, 1860.—Report in favor of printing the usual number submitted, considered, and agreed to.

To the Senate of the United States:

I transmit herewith a report from the Acting Secretary of War, with its accompanying papers, communicating the information called for by the resolution of the Senate, of the 9th instant, respecting the marble columns for the Capitol extension.

JAMES BUCHANAN.

WASHINGTON, *March 16, 1860.*

WAR DEPARTMENT, *March 16, 1860.*

SIR: In compliance with the resolution of the Senate, of the 9th instant, referred by you to this Department, requesting the President to communicate to that body "the letter of J. F. Connolly to the Secretary of War, dated on or about the 26th January, 1860, in relation to his offer for marble columns for the porticoes of the Capitol extension; also all orders or instructions, and of the superintendent of the Capitol extension, and also any communication that may have been made by the contractors in relation to said columns, or to the contracts or bids therefor, not already communicated to the Senate;" I have the honor to transmit to you copies of the papers named in the accompanying schedule, comprising all the information in possession of this department, included in the call.

The resolution of the Senate is herewith returned.

Very respectfully, your obedient servant,

W. R. DRINKARD,
Acting Secretary of War.

The PRESIDENT.

List of accompanying papers.

1. Mr. Connolly to Mr. Floyd, December 29, 1859.
2. Same to same, January 26, 1860.
3. Same to same, February 1, 1860.
4. Mr. Floyd to Captain Franklin, March 2, 1860.
5. Captain Franklin to Mr. Floyd, March 7, 1860.
6. Mr. Floyd to Captain Franklin, March 9, 1860.
7. Messrs. Rice, Baird & Heebner to Mr. Floyd, March 9, 1860.
8. Mr. Floyd to Messrs. Rice, Baird & Heebner, March 9, 1860.
9. Messrs. Rice Baird & Heebner to Mr. Floyd, March 11, 1860.
10. Captain Franklin to Mr. Floyd, March 12, 1860.

1. *Mr. Connolly to Mr. Floyd.*

WASHINGTON, *December 29, 1859.*

SIR: Some three years ago, or more, the government made a contract with Baird, Rice & Heebner to furnish marble columns or shafts (in one piece) for the new Capitol. These contractors having failed to supply the shafts or columns, agreeably to contract, the engineer in charge advertised, on the 4th December, 1858, for proposals to furnish the same. I bid \$1,550 for each solid piece, which is considerably lower than any other bid, and very little above the original contracted forfeited price. On the 15th of June last, you directed the engineer in charge of the Capitol to contract with me accordingly.

Immediately after the issue of this order, I proceeded to Philadelphia and purchased over \$3,500 worth of iron, to construct a railroad from the quarry to the Northern Central railroad. I also added \$2,000 to my other improvements, with a view of promptly executing the contract with the government. On my return to Baltimore, about the 25th of June last, to my utter surprise, I was informed that the President had suspended the order, and directed that six months additional time be given to the former contractors. That time has now, I believe, about expired, and it is fully known now, as well as then, that these contractors could not furnish the marble in solid pieces. For my ability to furnish the same from my quarry in Baltimore county, and the quality thereof, I refer you to the report of Captain Meigs, on file in your office.

By reference to that report, you will perceive that he expresses the opinion that the shafts in solid pieces cannot be procured elsewhere for the same price, if at all.

I have suffered considerable loss, and will suffer greater, unless this suspended contract with me is carried out at an early day.

With great respect, I am your obedient servant,

JOHN F. CONNOLLY.

Hon. JOHN B. FLOYD, *Secretary of War.*

2. *Mr. Connolly to Mr. Floyd.*BALTIMORE, *January 26, 1860.*

SIR: I respectfully invite your attention to a review of the facts connected with the suspension by the President of your order of May 11, 1859, to Captain Meigs, announcing to him that the contract with Rice, Baird & Heebner for the column shafts of the Capitol, was declared forfeited, and also to your order directing Captain Meigs to contract with me for monolithic columns of my marble. When this order was given, I immediately proceeded to Philadelphia to purchase a quantity of iron, to construct a railroad from my quarry to connect with the North Central railroad, at a cost of nearly \$5,500; never for a moment apprehending that a contract which had been thus forfeited by the department would be afterwards readopted and modified, especially as it had been attended with the positive order to contract with me for the columns; and neither could I have anticipated the suspension of this order, inasmuch as I was advised that the decision of a head of a department was final, and an appeal could not be taken in any such case, where the jurisdiction was undoubted. I do not refer to this in a spirit of complaint; but only to show that I felt confident of the order in my favor being fully carried out, which alone caused me this large outlay of my means. That order was based on the letter of Captain Meigs, of May 10, 1859, in which he informed you that, in obedience to your order, he had visited Philadelphia and Lee, and conferred with Messrs. Heebner & Rice. He said: "I have examined their quarry at Lee, and also that of J. F. Connolly, Baltimore county, Maryland." He also referred to a letter of these contractors, (marked C,) in which they asserted that they could furnish the columns in two pieces. Captain Meigs stated "that this letter was signed in the name of the firm, but that Heebner refused to sign it or agree to its being sent;" and then informed you that, after a conference with the contractors, and a careful inspection of their quarry, he was of the opinion "that they had no prospect of continuing the supply of marble to the fulfillment of their contract, so far as regards the *column shafts*, and also that they could not, in any reasonable time, supply from their Lee quarry, even in *four or six pieces*." Thus far, then, Captain Meigs was convinced by a conference with the contractors, and by a personal inspection of their quarry, that they could not fulfill their contract. Thus far, then, you had the positive testimony of Captain Meigs as to their inability to supply the government with these columns, as required by their contract.

After this interview with these contractors, Captain Meigs inspected my quarry, and his testimony was full and complete as to my ability to furnish 100 column shafts in *one piece*, and also in approval of the quality and durability of the material. In composition he said, "it was similar to the Lee marble." He says, also, "that he found four column shafts quarried, and from the appearance of the quarry, that it was capable of supplying 100 blocks of sufficient size for monolithic column shafts." The east and west fronts of the post office (he says) are constructed of this marble, and from them its appearance can be known;

and he regretted "that the stone was not of such beauty as to enable him heartily to recommend its adoption." As to this single objection, I can merely remark that it is only a matter of taste and fancy. The Washington monument at Baltimore is constructed of this marble, and the material has not only received the approval of the public taste for its chaste yet sparkling richness, but the exposure of over thirty years to the rays of the sun and the action of both frost and rain, attest its durability, and also its capacity to retain its color and beauty. In addition to these standing records of the durability of my marble, and the retention of its color, I beg also to refer you to the certificates of the old established marble cutters, Messrs. Bevin & Sons, and John W. Maxwell, of Baltimore, filed in your department, December 4, 1858, who say that they worked the marble thirty years ago, and testify to its durability, and its inherent qualities to resist the action of *cold* and *heat* or *moisture*, and retain its original color. The Post Office may well compare in material with the dingy streaks that tarnish the marble of the Lee quarry. Captain Meigs must admit that the chaste yet spangled lustre of the Baltimore marble columns would relieve the sombre shades which darken the texture of the Lee marble, and would give to the exterior of the edifice a light, yet attractive, show, in finish and style.

Here I would remark, that none of the marble of the quarries which he subsequently inspected, have ever been in use for such a period of time, and no evidence can be adduced to be compared to that which I have referred to, to prove its durability or its capacity to resist the influence of heat, cold, or moisture. Thus ended the captain's first report, so full in its praise of my marble for durability, color, and strength, as to have induced you to forfeit the contract of this firm, whose Lee quarry he declared could not supply the columns in four or six pieces, much less in one. You then directed him to make a contract with me to furnish one hundred monolithic columns. This order was signed on the 11th of May, 1859. These contractors protested against this order, but admitted that they could not supply the shafts with the Lee marble. I felt satisfied that your order in my favor would be carried out. I was ready to sign the contract, and had spent my money, as before stated, to enable me to perform it diligently and faithfully. This order was, however, by the interference of others, superseded and countermanded. This was effected by an appeal to the President, by whom it was made is unknown to me. It may have been done by one of the firm; it could not, of course, have been effected by your subordinate, Captain Meigs. It took place during your absence, and without my knowledge or consent. You will observe that Captain Meigs stated in his first report, "that if it is determined to use only native American marble, it is not probable that any better will be found, or any quarry capable of supplying one hundred large shafts so quickly as that of Mr. Connolly. Such shafts, then, you will observe, he states, I can furnish in one piece, and this you are aware is of vast importance, for if the walls should settle, columns in separate pieces would give, exhibit their seams, or joints, weaken their firmness and solidity, and deface their appearance, or would require constant expense to conceal such dividing lines. Captain Meigs was, on the 21st of May, 1859, ordered by you to in-

expect the marble quarries whose owners had proposed to furnish columns, or any others that he might desire. In his report of June 22, 1859, he stated that he had examined seventeen quarries. He again visited my quarry, and in less than four weeks, he seems to have qualified his first favorable report of this quarry. He had said that the marble was durable and strong, and in composition was similar to the Lee marble, "but was only defective in color and grain." In a few days, however, it became, in his opinion, liable to decay, and the large blocks were apt to be disfigured by veins of a dirty gray, which, in damp weather, became dirty to the eye, and he would regret to see it used, thus multiplying the most fanciful objections, when none such had been discovered before by him. I say, then, with due respect, that these objections are refuted by his first report, and also, by the unanswerable test as to texture, durability, and color, which are demonstrated by their use, for thirty years, in the Baltimore Washington monument, and in the east and west fronts of the Post Office. Captain Meigs, in his last report, condemned all the quarries he inspected, but seven, to wit: 1st, Holly, Fields & Kent's; 2d, Friedley's; 3d, Rutland, but doubts its durability; 4th, Connolly's; my own, but places me, in fact, after Friedley's, as the Rutland was not durable. I refer you to his report, for his remarks as to the others, as his classification reduces your choice to numbers one, two, and my own. He advised you, in this latter report, that the contractors requested to be allowed to furnish the shafts on the terms of their contract, from some other quarries than the Lee quarry. This you agreed to, "and six months was granted them *within which* to furnish a satisfactory specimen *with probable evidence* that the quarry would supply one hundred monolithic shafts of quality equal to the approved specimen and in a reasonable time."

Six months have elapsed and no evidence has been adduced to show a quarry that will produce, in a reasonable time, one hundred monolithic shafts *other than my own*. I have proved by Captain Meigs that I can supply that number, and more expeditiously than any other person. How, then, does it stand with the owners of the other quarries? The letter of Holly, Fields & Kent avows their inability to do so. They refused to make such a contract, and of course it cannot be procured of them by the present contractors. Captain Meigs says of Friedley's, "that it is *soft and slaty* and *too expensive*." The marble of the Rutland quarry *was not durable*, and of course cannot be considered by the department. This leaves my quarry without any competition for the supply of one hundred monolithic shafts.

I will contract to furnish them on the same terms as the contractors in their supplemental contract of the 30th March, 1854, or the terms which I proposed in my former bid under the advertisement of the department. Cannot this be done?

The contract with Messrs. Rice and Heebner authorizes you to forfeit it if it be not duly complied with. Here, then, is the power given by the old contract. The contractors have confessed their inability as regards their own Lee quarry. They cannot use the *Italian marble*. That has been settled by the patriotic voice of an American Congress, and that Congress required native marble to be used in the structure of the building. These contractors are also delinquent under your

late modified and substituted agreement with them, and, therefore, have no claim to your equity or forbearance. It will not be, I presume, therefore, necessary to forfeit anything more than this new agreement, as it is disconnected from the old contracts, and they have failed to comply with its terms. Nothing, I am advised, is better settled than that no party to a contract can take advantage of his own incompetency to execute it; and as these contractors are confessedly in default as regards their ability to furnish these columns, permit me to say that every principle of fair dealing requires you to protect the public interest, and provide such columns elsewhere for this great public work. Should such be your decision, I am sure your sense of justice will dictate a renewal of your order to contract with me, and which was only arrested after an appeal had been, as I think, wrongfully taken to the President, and after I had expended the large sum of \$5,500 to enable me to supply the columns as your order directed.

I have the honor to be, very respectfully, your obedient servant,
JOHN F. CONNOLLY.

Hon. JOHN B. FLOYD,
Secretary of War.

3. *Mr. Connolly to Mr. Floyd.*

WASHINGTON, *February 1, 1860.*

SIR: If you should renew your order to the engineer in charge of the Capitol extension, to purchase from me one hundred monolithic marble shafts for the Capitol, I will contract to furnish them within *twelve to twenty-four months*.

I have four already got out for shipment; and as soon as the contract is made I will proceed to get out the balance. Captain Meigs says, in his report of June 22, 1859, the Dover quarry appears to be capable of supplying blocks large enough, and in sufficient number.

But in the quarry, the stone appears to be strated, and I doubt whether blocks of pure uniform color could be obtained. There is a doubt, also, as to the strength and durability of this stone. As the price asked for it, however, is very high—\$3,050 for each shaft—I do not think it necessary to pursue the investigation further.

He classes it No. 5, which is below mine, and thereby excludes it as preferable to my marble; hence I did not refer to it in my letter of the 26th.

I am perfectly willing to submit my marble, and the four shafts now lying at the quarry, to the test of any two disinterested persons that you may name, as to durability, color, and capacity.

I have the honor to be, very respectfully, your obedient servant,
JOHN F. CONNOLLY.

Hon. JOHN B. FLOYD,
Secretary of War.

4. *Mr. Floyd to Captain Franklin.*WAR DEPARTMENT, *March 2, 1860.*

The engineer in charge of the Capitol extension will take the necessary steps to purchase from Mr. John F. Connolly one hundred monolithic marble columns, for the Capitol, on the terms of said Connolly's proposal, under the advertisement of the late engineer in charge, dated 30th September, 1858.

JOHN B. FLOYD,
Secretary of War.

5. *Captain Franklin to Mr. Floyd.*OFFICE UNITED STATES CAPITOL EXTENSION,
Washington, March 7, 1860.

SIR: I have the honor to acknowledge the receipt of the order of the department, of the 3d instant, directing me to take the necessary steps to purchase from Mr. John F. Connolly one hundred monolithic marble columns for the Capitol, on the terms of said Connolly's proposal, under the advertisement of the late engineer in charge, dated 30th September, 1858.

I would have attended to the matter sooner, but the order was only received yesterday.

There are some reasons which induce me to believe that the department is under a misapprehension with regard to this subject, which I will briefly state.

1. The original contract for monolithic columns, approved April 19, 1854, has not been abrogated, so far as the records of this office show. It is provided in that contract "that, in case the officer or agent of the United States, in charge of the Capitol extension, for the time being, shall, at any time, be of opinion that this contract is not duly complied with by the parties of the second part, &c., in such case, he shall be authorized to declare this contract forfeited, and thereupon the same shall become null, as far as it regards the party of the first part," (the United States.) I do not find any action of my predecessor which annuls the contract, and I have not acted in the matter. The action of the department in annulling the contract rests, so far as I am informed, where it did after the suspension of the abrogation by the President of the United States, in May last. It seems to me, therefore, that there is now in force a contract for the delivery of these columns.

2. The law of May 1, 1820, section 6, specifies that no contract shall be made, except under a law authorizing it, (specifically,) or under an appropriation adequate to its fulfillment. It is my opinion that this question does not come under either of these heads, for the subject has not been a matter of legislation, and there is no money in the treasury available for the Capitol extension. Would not a con-

tract entered into for these columns, or an order given for them at this time, when the appropriation is exhausted, be illegal?

3. Mr. Connolly, in his printed letter of January 26 last, addressed to you, makes two offers: one to furnish the columns at the price fixed by the contract, and the other at the price bid by him in 1858. There is a difference of \$150 per column in the prices, and yet the difference in the sizes of the necessary blocks is not material, not enough to justify the increased price. It would be to the advantage of the United States, in every respect, to have the columns furnished at the first offer.

4. The resolutions of the Senate of February 1, 1860, seem to indicate a desire on its part for further legislation, and the action of the department, giving the contract for the columns to another party, will either make the further legislation unnecessary or will seriously embarrass Congress in its action on the subject.

5. As the abrogation of the existing contract would become necessary, in case the order is given to Mr. Connolly, I believe that the completion of the work would be indefinitely postponed. I am at present at a loss to say where marble like the Lee marble, or enough like it to be properly placed in the building, can be found, and there can be no estimate made of what the cost of procuring proper marble will be.

I present these reasons with great diffidence, knowing that the subject has been tedious and annoying. But it seems to me so plain that nothing can be done to expedite the procural of the columns until Congress has either legislated directly or has made a regular appropriation for the work, that I have felt constrained to bring them to the notice of the department, and to respectfully ask a reconsideration of the order above referred to.

I have the honor to be, very respectfully, your obedient servant,

W. B. FRANKLIN,

Capt. Top. Eng'rs, in charge of U. S. Capitol Extension.

Hon. JOHN B. FLOYD,

Secretary of War.

6. *Mr. Floyd to Captain Franklin.*

WAR DEPARTMENT, *March 9, 1860.*

SIR: I have received your letter of the 7th instant, asking, for various reasons therein stated, a reconsideration of my order of the 2d instant, directing you "to take the necessary steps to purchase from Mr. John F. Connolly one hundred monolithic columns for the Capitol, on the terms of said Connolly's proposal under the advertisement of the late engineer in charge, dated September 30, 1858."

I regret that, on the receipt of the order, you did not come to me and, with the frankness that I have more than once invited, present verbally the views that you have thought proper to submit in a more formal manner. Such a procedure would have been more in harmony with the cordial relations heretofore subsisting between us,

and in more strict conformity to the peculiar rights and duties which are prescribed by our official positions. As, however, you have addressed to me this letter, in which I am respectfully reminded of my forgetfulness of law and facts, connected with a subject about which I have given an order, I will so far dismiss the question of my prerogative and your duty, in the premises, as to give you a written reply.

The objections that you present to the execution of the order in question are five in number, and I shall respond to them in the order in which they are stated in your letter.

1. *"The original contract has not been abrogated."*

This is true, and it is not the intention of the department to abrogate it. The order of the 2d instant was made to avoid that result. After unexampled indulgence, the department has ascertained clearly that the contractors cannot furnish monolithic shafts of American marble; nor can they, as reported by the late engineer, furnish the columns in two blocks each, as called for by their contract; and therefore simply proposes to purchase from another party what the contractors have heretofore failed and are unable to obtain.

And this is done for the further reason that the contractors can comply with the other provisions of their contract; and the department chooses that remedy in protecting the interests of the government which will operate least harshly upon them.

The order does not direct you to declare the contract, or any portion of it, forfeited; nor does it contemplate any communication between you and the contractors on the subject. It directs dealings with a third party without any injury to the contractors, whose rights in the premises are lost simply because they cannot exercise them. And this is the only way to save the contractors from the loss of the whole contract, and the entire work from a total suspension.

2. *The illegality of the order.*

I do not design to wound your feelings when I remind you that it is scarcely your duty to decide upon the legality of my orders, or to delay obedience because of your opinion that they are contrary to law. The Attorney General is my legal adviser, and it is to him that I look when I am involved in legal doubts. Moreover, the Supreme Court has decided that subordinates "have not the burden of responsibility cast upon them of revising the judgments, correcting the supposed mistakes, or annulling the orders of the heads of departments." In this view of the subject, you assume no responsibility in executing my orders. Mine is the responsibility of issuing the command; yours is the responsibility simply of obedience.

But it is a mistake to suppose that the order in question is illegal. It does not direct that a "contract" be made with Connolly; and if you had entered into a "contract," you would have violated the letter and the spirit of that order.

The fact was ascertained that the contractors could not furnish the columns; for reasons already stated it was not convenient to

declare the contract forfeited; and therefore, as an accommodation to the contractors, as well as for the purpose of expediting an already too tardy work, the engineer is directed "to take the the necessary steps to purchase," from one known to be able to supply the columns, on the terms of a certain proposal heretofore made; not to make a new "contract," but to go into market and buy one article specified in the contract that the contractors are unable to furnish. A specific appropriation is not necessary for this, nor is a law authorizing it necessary. Both of these, however, have already been made, and so has the contract; and had the "law" been obeyed, some of the columns would have been delivered and paid for. Besides, there is a law still existing which authorizes the procurement of these columns.

No, this order does not require a "contract," beyond such as is necessary to purchase from day to day articles needed in the progress of the building.

3. *Mr. Connolly makes two offers in his printed letter, and the one designated by the order is the least advantageous to the government.*

An examination of recorded facts, as they appear in public documents, and the papers relating to this subject, will put this matter in its true light. "The supplemental contract, under authority of the joint resolution of Congress, 20th February, 1854," requires the contractors to "deliver for the one hundred columns of the exterior porticoes as many monolithic shafts as their quarry may prove capable of furnishing;" and they are to be paid "at the rate of fourteen hundred dollars for each monolithic-column shaft." No mention is here made of the torus at one extremity of the shaft, or of the astragal at the other extremity; and the fair presumption is, that under that contract, the contractors would have been paid so many hundred dollars for each shaft, and so much per cubic foot for the torus and astragal.

This view is confirmed by the advertisement of Captain Meigs, dated 30th September, 1858, in which, to avoid the omission in the supplemental contract, so fortunate for the contractors, he specifically names the torus and astragal as parts of the shafts. Hence, Mr. Connolly bids \$1,550 per shaft under that advertisement; and hence, the reason for the "two" different "offers." The beauty and solidity of the shaft would certainly be much increased by having it and the torus and astragal in one piece, and it was deemed by the department that, even if the difference in price was against the government, it was too small to be made an impediment to the accomplishment of so desirable an object.

4. *This order may interfere with some anticipated action of the present Congress.*

This is, in no sense of the word, an objection, and bears the resemblance of a pretext to avoid the execution of a contract under an existing law of Congress, in the expectation of further legislation. No bill, to that effect, has yet been presented to either House; and the suppo-

sition is based on a mere resolution of inquiry, from which it is impossible to conjecture what will be the action of Congress.

Further, it is no part of the business of the Secretary of War, or the engineer in charge of the Capitol Extension, to engage in making laws, or to indulge in vague speculations as to what Congress may or may not do; much less is it their duty to postpone the execution of a law of one Congress in anticipation of its revocation or modification by another Congress.

Their plain and simple, and only, duty is promptly and faithfully to execute the laws now on the statute-book; and you may be assured that, in this respect, so far as I am able, you shall always receive my hearty concurrence and cordial support.

5. *The abrogation of the existing contract would indefinitely postpone the completion of the work.*

This has been already answered in my remarks on your first objection. "The existing contract" is not to be abrogated: therefore, "the completion of the work" will not be "indefinitely postponed."

From the nature of this reply, you might naturally infer that I am disposed to adhere to the order of the 2d instant, and to insist upon its execution. In view of the law and the facts, I might safely take that position, but out of respect to the embarrassments by which you think you are surrounded, and to reassure you of my earnest desire to afford you every reasonable facility, and to treat your views with proper deference, I have to say that I will consent to a modification of that order, so far as to authorize you to purchase the monolithic shafts from Mr. Connolly, on the terms of either of the two offers made by him, which, in your judgment, will be most advantageous to the government.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

Captain WILLIAM B. FRANKLIN,
Topographical Engineers, in charge Capitol Extension.

7. *Messrs. Rice, Baird & Heebner to Mr. Floyd.*

WASHINGTON, March 9, 1860.

SIR: On the 29th of June last we received an order from the department giving us six months from July 1 to furnish specimens of marble from the various quarries for obtaining the columns for the Capitol extension.

This order we have complied with, as will be seen by our letter on file, dated December 23, 1859, and we have been waiting until this time without hearing of any decision in regard to it.

We have, however, heard to our amazement that you intend award-

ing a contract for these columns to other parties, at a cost to the government of \$15,000 more than the terms of our contract.

As this course will be a direct violation of our contract for furnishing the marble for the Capitol extension, we respectfully enter our protest against it.

Flattering ourselves that we can furnish these columns in as short time as any other parties, we remain, your obedient servants,

RICE, BAIRD & HEEBNER,

Contractors for the marble of the Capitol Extension.

Hon. JOHN B. FLOYD,

Secretary of War.

8. *Mr. Floyd to Messrs. Rice, Baird & Heebner.*

WAR DEPARTMENT, March 9, 1860.

GENTLEMEN: Your letter of this morning has been received, and demands an immediate reply.

This department does not intend to award any "contract" for the columns in question, nor by any action it contemplates taking in this matter, to incur any additional cost on the part of the government, nor does it propose any "violation" of your contract. You have failed to fulfill the terms of that instrument, by failing to deliver any of the column shafts provided for thereby, and you have failed to comply with my order of the 29th of June last, giving you, upon the recommendation of the late engineer in charge, the further period of six months, "within which to furnish a satisfactory specimen, with probable evidence that the quarry would supply one hundred monolithic shafts, of quality equal to the approved specimen, and in a reasonable time."

In view of these failures on your part to fulfill the conditions of your contract, the department has it in contemplation to procure the shafts as best it can.

In consideration of the procrastination and delay that you have marked the execution of your contract, in reference to the columns in question, the department deems this the most lenient course it can take, having at the same time a proper regard to the public interest.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

MESSRS. RICE, BAIRD & HEEBNER,
Philadelphia.

9. *Messrs. Rice, Baird & Heebner to Mr. Floyd.*

PHILADELPHIA, March 11, 1860.

SIR: Your favor of March 9 was received, to which we promptly reply.

To the first part of your letter, in which you say you do not intend

to award any contract for the columns, nor incur any additional expense on the part of the government, we would state that our authority for making that assertion was your action ordering the engineer in charge to contract for the columns with Mr. Connolly, in accordance with his proposal for the same, which in the printed document we find to be \$1,550 for each column, whilst the terms in our contract are \$1,400 for each column.

Again, you say the department does not propose any violation of our contract. Our reply to this is, that if the order is carried out and a contract made with other parties, we shall most positively consider it a *violation* of our contract.

To that part of your letter wherein you state that we have failed to deliver any of the column shafts in accordance with our contract, we call your attention to the wording of our supplemental contract, wherein it says we are to furnish as many of these shafts as the quarry will produce in one piece, the remainder in two pieces. At the time the contract was made, it was thought by Captain Meigs, and ourselves also, that the quarry would produce a large number of them in single pieces. It has proved otherwise, and should not be chargeable to us. The failure of the quarry to produce single shafts does not deprive us of the right to furnish a large number of them in two pieces. The desire on the part of the government to have them in single shafts is the only reason why we have not availed ourselves of this privilege in our contract.

You again charge us with failing to comply with your order of the 29th of June last, giving us six months to furnish specimens, &c. To this we reply that we have complied with the order, and that we have furnished specimens, although we have said nothing about quality, &c., preferring to leave that to the engineer in charge, as will be seen by reference to our letter of the 23d of December.

In regard to the time mentioned in our letter to the engineer in charge, dated January 5, 1860, we came to that conclusion on a careful observation of the appearance and condition of the quarries from which they were to be obtained, and our own experience in operations of this magnitude.

If they could be obtained in any shorter time, we certainly would avail ourselves of the opportunity, being much more to our advantage, and being very anxious to close our contract with the government.

We desire to call your attention to the fact that we commenced negotiations for the columns in pieces, in August, 1857, which negotiation was continued to August, 1858, and after repeated verbal assurances that you would so order them, you decided that the contract of 1852 could not be altered.

In September, 1858, you ordered the engineer in charge to advertise for proposals, which were received in November. April 20, 1859, you ordered Captain Meigs to visit the quarries of the bidders and report upon the condition of them. That report was made to the department on June 22.

On the 29th of June we received the order aforesaid, which we answered on the 23d of December.

To substantiate what we have said in the foregoing, and to show that the delay has been on the part of the department, and not ours,

we refer you to the miscellaneous document of the Senate No. 29, of this present Congress, commencing at page 65 and continuing through to the end, a careful perusal of which will certainly relieve us of the charges contained in your letter of March 9, 1860.

We are anxious to fulfill our contract with the government, and we have not pressed you to any conclusion, believing that until an appropriation was made no orders would be given for any marble for the Capitol extension; and we now ask you to select from the specimens deposited with the engineer in charge, pledging ourselves to comply with the order as soon as an appropriation is made by Congress.

Very truly, your obedient servants,

RICE, BAIRD & HEEBNER,

Contractors for marble, extension United States Capitol.

Hon. JOHN B. FLOYD, *Secretary of War.*

10. *Captain Franklin to Mr. Floyd.*

OFFICE U. S. CAPITOL EXTENSION,
Washington, March 12, 1860.

SIR: I have the honor to acknowledge the receipt of the letter of the department of the 9th instant, in answer to mine of the 7th instant. I have learned that the order therein contained has been temporarily suspended, and I shall proceed to execute it as soon as the suspension is withdrawn; and shall, unless otherwise directed, await further information from the department.

I am, very respectfully, your obedient servant,

W. B. FRANKLIN,

Capt. of Top'l Engs., in charge.

Hon. JOHN B. FLOYD, *Secretary of War.*

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