

priated out of any money in the state treasury, not otherwise appropriated, for the relief of Ellen Rush, whose husband, Thomas Rush, was, on February 15, 1895, and while engaged in the performance of his duties as guard in the state penitentiary, struck on the head by a prisoner then confined therein and from the effects of which blow the said Thomas Rush died, May 12, 1895.

SEC. 2. That out of said sum of four thousand four hundred (4,400) dollars so appropriated, the sum of seventeen hundred (1,700) dollars be paid to Henry Wolfer, as trustee, who is hereby authorized to pay off the mortgage now existing upon the homestead of said Ellen Rush, and to obtain and cancel the notes and file the discharge of the mortgage and to do such other things as will give a clear title to said homestead in said Ellen Rush, said seventeen hundred (1,700) dollars to be paid upon the passage of this act, and that the balance of twenty-seven hundred (2,700) dollars be thereafter paid to said Ellen Rush, in monthly installments of forty (40) dollars per month, until all is paid.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 23, 1897.

H. F. No. 725.

CHAPTER 307.

Bonds of
contractors
for public
works.

An act to amend chapter three hundred and fifty-four (354) of the general laws of eighteen hundred and ninety-five (1895), entitled "An act providing for the giving of bonds by contractors for public works and improvements and for the better security of the state and the corporations thereof, and parties performing labor and furnishing material therefor."

Be it enacted by the Legislature of the state of Minnesota:

Amendment.

SECTION 1. That section one (1) of chapter three hundred and fifty-four (354) of the general laws of eighteen hundred and ninety-five (1895), be and the same is hereby amended so as to read as follows:

Bond required
for all con-
tracts for
public works
or improve-
ments for
state, county,
municipality,
school

Sec. 1. Before any contract whatever for the doing of any work or labor or furnishing any skill or material to the state of Minnesota, any county, township, village, school district, city or other public corporations of the state, for the erection, construction, alteration or repair of any bridge, public building or other public

structure, work or improvement, or in the making of any public improvement whatsoever shall be valid for any purpose, the contractor therefor shall enter into a bond with the state or such county, township, village, school district, city or other public corporation for the use of the same, and also for the use of all persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay as they become due, all just claims for all work and labor performed and all skill and material furnished in the execution of such contract, and also to save the obligee named in such bond harmless from any cost, charge and expense that may accrue on account of the doing of the work specified in such contract, and also to complete such contract according to the terms thereof and the contract price, and to comply with all the requirements of law, which bond shall be in an amount not less than one-half the contract price agreed to be paid for the performance of such contract when such contract exceeds one hundred thousand dollars, unless the board, person or those who under the authority of the state have respectively the care, control and management of such contracts and whose duty it is to approve such bonds shall demand a larger sum, and shall be duly signed and acknowledged by such contractor and two or more sufficient sureties, which bond shall be approved by and filed in the office of the treasurer of the obligee therein named, except that the bonds so given on account of the erection of any new building for the state, or the enlargement or improvement of those already in existence, for the several state institutions, the same shall be approved by and filed with those who under authority of the state have respectively the care, control and management of the several state institutions, and except that the bonds so given to any incorporated city shall be approved by the mayor of the city and filed with the contract in the office of the custodian of such contract.

SEC. 2. That section four (4) of chapter three hundred and fifty-four (354) of the general laws of eighteen hundred and ninety-five (1895) be and the same is hereby amended so as to read as follows:

Sec. 4. Whoever shall perform or cause to be performed any work or labor or furnish or cause to be furnished any skill or material, including any work, labor, skill or material necessary in the repair of any tool or machine, and including the use of any tool or machine or material furnished particularly for such contract and used therefor in the execution of such contract at the request of the contractor, his agents, heirs, administra-

district or public corporation.

Bond for use of obligee and for persons performing labor or furnishing material.

Bond for not less than one half of contract price, with two or more sureties.

Approval and deposit of bond.

Parties in interest to said bond.

tors, executors or assigns, or at the request of any sub-contractor, his heirs, agents, administrators, executors or assigns, or at the request of the obligee named in said bond, in case such obligee shall have determined such contract and shall have completed the same at the cost of the contractors, shall be considered a party in interest in said bond and may bring an action thereon for the reasonable value or agreed price, as the case may be, of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract; such action may be brought by any party authorized as hereinbefore set forth to begin the same, whenever his claims are not paid as the same become due. At the time of bringing such suit the plaintiff therein shall notify the obligee named in said bond, letting such contract, that said suit has been commenced, specifying the names of the parties to said suit, the bond upon which the said suit is brought and the amount and nature of plaintiff's claim, and judgment shall not be entered on such action until thirty (30) days after said notice has been given.

Bringing actions on bonds.

Notice to obligee.

Parties joining in action on bond.

Any party having a cause of action on such bond may, on petition, be made a party to any action which may be brought thereon, and in said action the court shall adjudicate and determine the rights of all parties to said action, and if the amount realized on said bond shall not be sufficient to discharge all such claims in full, the amount realized shall be distributed pro rata in discharge of the claims of the parties in said action, and the obligee named in any such bond shall also be considered a party in interest and may bring an action thereon whenever a right of action thereon in favor of such obligee shall have accrued.

Term "sub-contractor" defined.

A sub-contractor within the meaning of this section is a person who enters into a specific contract to perform all or some part of the work required to be done under the original contract.

SEC. 3. That section six (6) of chapter three hundred and fifty-four (354) of the general laws of eighteen hundred and ninety-five (1895), be and the same is hereby amended so as to read as follows:

Limit of time in bringing actions.

SEC. 6. No action shall be maintained on any such bond, unless the plaintiff, within ninety (90) days after performing the last item of work or furnishing the last item of skill or material, shall serve upon the principal and the surety or sureties in said bond, a written notice, specifying the nature and amount of plaintiff's claim and the date of furnishing the last item of said work, skill or material, and unless the said action shall be commenced within one (1) year after the cause of action accrues.

SEC. 4. All acts and parts of acts, whether general or special, inconsistent with the provisions of this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved April 23, 1897.

CHAPTER 308.

H. F. No. 290.

An act providing for changing the boundary line between adjoining counties.

Changing boundary lines between counties.

Be it enacted by the Legislature of the state of Minnesota.

SECTION 1. The boundry line between adjoining counties in this state may be changed in the manner hereinafter set forth; *provided*, the area of any county shall not be reduced below two thousand (2,000) square miles, including lakes and meandered streams, nor more than two hundred and ninety (290) square miles of area shall be taken from any county.

Limiting territory in changing boundary lines in adjoining counties.

SEC. 2. Whenever there shall be presented to the secretary of state, and filed in his office, a petition signed by not less than sixty (60) per cent. of the legal voters of any county within this state, as shown by the returns of the last preceding general election, praying that the boundary line between said county and an adjoining county, named in said petition, be changed to conform to a proposed boundry line accurately described in said petition, and a like petition shall be presented to and filed in the office of the secretary of state, signed by not less than sixty per cent. of the legal voters of such adjoining county, as shown by the returns of the last preceding general election, praying for a like change in the boundary line between said county and the said adjoining county, and said petitions are respectively verified by the oath of each of the persons signing the same before some one qualified to administer oaths, to the effect that the petitioner knew the contents and purpose of the petition subscribed by him, and that, at the time of signing the same, he was a resident and legal voter of his county; in such case it shall be the duty of the secretary of state to notify the governor and state auditor of the receipt and filing of said petitions, and thereupon the governor, secretary of state and state auditor, who, for the purposes of this act, are hereby constituted a commission to carry out the provisions

Petitions to secretary of state and requirements for the same.

Action by secretary of state, governor and state auditor.