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New Pennsylvania Bond Laws

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A Summary of the Present Status of Contractors' Bonds Protecting Subcontractors and Materialmen on Public Work in Pennsylvania

Forty-four states in the Union, as well as the Federal Government, require contractors on public work to furnish a bond for the protection of laborers and materialmen.[1] There is nothing ultra vires or contrary to public policy in this requirement. It is the right, as well as the interest, of the municipality to secure good work upon its contracts for public improvements and there is no better policy toward that end than to satisfy honest and competent workmen that they can rely on being paid. There being no right of mechanics' liens against public works, the laborers and materialmen are, to that extent, in the contractors' power as to pay and that fact has a natural tendency to produce skimped work and inferior materials by the class of men willing to run that risk. Against this risk the city is entitled to protect itself by exacting assurance from the contractor that he will pay his honest debts incurred in doing the public work: *Philadelphia v. Stewart, 195 Pa. 309 (1900); 201 Pa. 526 (1902).*

Our Supreme Court has frequently said that "in contracts for the performance of public work the state or its subdivisions may, as a matter of public policy, by statute or ordinance require bonds to protect those furnishing labor and material for such work, and where a bond is given for public work in pursuance of a statute or ordinance for the protection of laborers and materialmen, those who come within the protected class may sue the surety on

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[1]The states without express bond legislation protecting labor and materialmen are: Kentucky, Maine, New York, Rhode Island, South Carolina, Virginia and Vermont. However, as a matter of policy, a bond protecting labor and materialmen is required by the State Highway Department in Maine, South Carolina and Virginia.

the bond:" *Greene County v. Southern Surety Co., 292 Pa. 304 (1928).*

Existing legislation may be subdivided as follows:

(a) Federal System;
(b) Ohio System;
(c) Additional Bond System;
(d) Miscellaneous.

The Act of Congress, known as the Heard Act (August 13, 1894, as amended February 24, 1905), requires that performance bonds shall contain an additional clause conditioned that the contractor shall promptly make payment to all persons supplying labor or material for the prosecution of the work provided for in the contract. If the full amount of the liability of the surety on such a bond is insufficient to pay the full amount of the claims and demands, then, after paying the full amount due the United States, the remainder is distributed *pro rata* among laborers and materialmen. The principal objection to the Heard Act and similar statutes is that, in event suit is not instituted by the obligee, laborers and materialmen have no right of action until six months after the completion and final settlement of the public improvement. Consequently, a subcontractor must frequently wait a year or more after he has furnished his last labor or material before he may demand payment from the bonding company.

Naturally, the increased cost to the subcontractor by reason of such delay is reflected in the amount of his bid, and, therefore, to some degree, one of the advantages which should enure to the municipality by the use of such bonds, namely, the reduction in cost of the public improvement, is partially lost.

The principal statute in Ohio is section 2365 of the Code. Under this legislation, the bond is required to contain a like additional obligation and to be in an amount equal to at least 50 per cent. of the contract price. A person to whom money is due on account of having performed labor or furnished material in the prosecution of the public improvement, at any time after performing such

labor or furnishing such material, but not later than ninety days after the acceptance of the public improvement, is required to furnish the surety on the bond with a statement of the amount due such claimant. Suit may not be brought against the surety until after sixty days from the furnishing of such statement. However, if such indebtedness is not paid in full at the expiration of said period of sixty days, the claimant may bring an action in his own name upon the bond, which action must be commenced not later than one year from the date of the acceptance of said public improvement.

The Supreme Court of Ohio has held that, where the penal sum named in the bond is insufficient to cover the loss sustained by the municipality, the municipality may recover the full penal sum named in the bond and the persons who furnished labor and material required to construct the public improvement have no right to share in the fund, since the statute does not expressly give materialmen priority over the municipality: *Cleveland Builders Supply Co. v. Village of Garfield, 116 Ohio, 339 (1927), 156 N. E. 209.* Thus, the penal sum named in the bond may be exhausted to the detriment of subcontractors and materialmen. While the possibility of such a total loss to laborers and materialmen is most remote, nevertheless the illustration just given furnishes a strong argument in favor of the Pennsylvania, or additional bond system.

However, until the enactment of the acts passed by the 1931 session of the legislature, there were so many statutes in Pennsylvania that the rights of parties, if any, varied with the place where and the time when the additional bond was taken, the kind of labor and material furnished, and the form of the bond.

When the Commonwealth of Pennsylvania entered into a contract for the improvement of a state highway, it was the duty of the contractor to furnish a performance bond containing an additional obligation for the protection of laborers and materialmen. The Act of Assembly (May 31, 1911, P. L. 468, as amended June 16, 1921) was almost identical, word for word, to the Heard Act. This federal

statute is liberally construed by the courts. It has been held that, while the statute is somewhat ambiguous, the courts should so construe it as to give full effect to its obvious purpose, avoid injustice and absurd results: *London, etc., Indemnity Co. v. Smoot, 287 Fed. 952 (1923).*

Under the Heard Act, recovery may be had for oil, gasoline, etc., used in operating shovels employed in the work of excavation and for dynamite, explosives, etc., used in the construction of a public highway. Most states permit recovery for such items. When the issue came before the Supreme Court of Pennsylvania, it was held that, while the amendment of 1921 made the Pennsylvania statute almost identical to the Heard Act, this amendment did not relate to or increase the obligations of the surety, but merely pertained to the procedure which a creditor might take to enforce a claim under the bond. The court used the following language: "The decisions under federal statutes or those of other states cited to us by appellant have no bearing on the meaning of our acts or on the question of public policy which they involve:" *Com. v. Union Indemnity Co., 299 Pa. 143 (1930).*

Practically every argument which can be maintained for construing the Negotiable Instruments Act and other uniform statutes the same way in the various states may be used to justify a uniform construction of identical words in any bond legislation. The highest court of Alabama has held that the decisions of the Supreme Court of the United States will be followed and recovery allowed under the bond for gasoline, oil, etc., furnished to a highway contractor, applying the established doctrine that a legislature, in enacting a statute of another jurisdiction, enacts it with its authoritative interpretation: *State v. Southern Surety Co., 221 Ala. 116, 127 So. 806 (1930).*

To correct the conditions brought about by the Pennsylvania case just quoted and by decisions such as *City, to use, v. Perna; 94 Pa. Superior Ct. 577 (1928),* and *Com. v. Aetna Casualty Co., 101 Pa. Superior Ct. 314 (1931)* which hold that forms into which cement and concrete are poured, *i. e.,* a false-work, materials which do not remain

upon the completion of the contract or become a component part of the public improvement, are not protected by the bond legislation, the Highway Act was amended by the Act of May 7, 1929, P. L. 1590, to provide that the bond shall be conditioned for the payment for all material furnished or labor performed in the prosecution of the work contracted for, whether or not the said labor or material entered into and became component parts of the structure, work or improvement contemplated. The coverage of the Act of 1929 was adopted in the 1931 legislation.

In *Greene County v. Southern Surety Co., 292 Pa. 304 (1928),* the court analyzed the rights of third-party beneficiaries under bonds executed in connection with public improvements. In that case, Greene County entered into an agreement for the construction of a state highway route. The court concluded that, in the absence of legislation requiring a county to obtain a bond for the protection of such materialmen, a sub-contractor who furnished material which actually went into the construction of the highway could not maintain a suit upon the bond taken by the county, either in his own name or in the name of Greene County to his use, notwithstanding the express condition in the bond that the "principal and his surety shall (1) save harmless the County of Greene from . . . any liability for the payment of wages due or materials furnished . . . and shall well and truly pay for all material furnished . . . [for] the . . . highway."

By the weight of authority throughout the United States, materialmen may not sue in their own names on such a bond. Even though in *Montgomery County v. Ambler-Davis Co., 302 Pa. 333 (1931),* where the county instituted suit in its own name for the use of laborers and materialmen on a substantially similar bond on the theory that the bond was not only an agreement of indemnity but also an obligation of insurance, a judgment entered for the defendant on questions of law was sustained, it has been decided in other states that a municipality may maintain an action in its name for the benefit of unpaid laborers and materialmen against the surety company on the bond under its ex-

press obligation to pay or cause to be paid sums due persons who furnished labor and material required in the prosecution of a public improvement.

As an aftermath to the *Greene County* case, the municipal officers changed the form of bond required by counties and other municipalities in connection with the highway work by inserting a clause that the principal and surety were liable unto the county for the use "of the county and any other corporation or persons interested" and by adding a new paragraph to the effect that the principal and surety agreed with the obligee that, in case of the failure on the part of either to carry out the provisions of the bond, any person who furnished labor or material used in and about the construction of the highway, payment for which had not been made, had the right to intervene in and be made a party to an action instituted by the municipality, subject, however, to the priority of the claim and judgment of the municipality, and if suit were not brought upon the bond by the municipality within six months from the completion of said contract and final settlement thereunder, such laborers and materialmen had the right to sue on the bond. Such voluntary bonds have been sustained by our Supreme Court: *Portland Sand and Gravel Co. v. Globe Indemnity Co., 301 Pa. 132 (1930); Easton School District v. Continental Casualty Co., 304 Pa. 67 (1931).*

Section one of the Act of May 10, 1917, P. L. 158, as amended May 6, 1925, P. L. 546, made it the duty of all counties, cities, boroughs, towns, townships, school districts and poor districts, in the improvement of lands or in the erection or repair of public buildings, to require of the contractor an additional bond with sufficient surety or sureties providing for the payment of all labor and material entering into such improvement. Section two gave laborers and materialmen the right to sue in an action of assumpsit in the name of the obligee upon such additional bond upon proof of the contractor's failure to pay for said labor and material.

This statute was further amended by the Act of March 28, 1929, P. L. 106, to require the additional bond to be

taken in the improvement or repair of roads and bridges and to provide for the payment "of all machinery used on such improvement." The clause just quoted is vague and uncertain. It does not indicate whether payment may be recovered for the rental value of machinery during its actual use, for all or part of the cost of the machinery, or for repairs which may be required during the use of the machinery in connection with the public improvement. Furthermore, the scope of this amendment was reduced since the Act of 1925 has been repealed, in so far as boroughs were concerned, by the General Borough Act of 1927, P. L. 519 (although section 1201 of this Code expressly reenacts the Act of 1925), and by the General County Act of 1929, P. L. 1278, pertaining to counties of the second to the eighth class, although section 564 of this Code is substantially similar to the Act of 1925. Whether the amendment of March 28, 1929, P. L. 106, was carried into the County Code of 1929 by section 1052 thereof is now in litigation.

The only county in this state which is a county of the first class is Philadelphia County. In this county, laborers and materialmen were protected by the Ordinance of January 15, 1925, now the Ordinance of July 10, 1930, page 352. By this ordinance, persons entering into a contract with the City of Philadelphia are required to furnish an additional bond for the protection of laborers and materialmen. However, the ordinance provides that no suit shall be brought upon the bond unless written notice of the delivery of the material or the performance of the work has been given to the principal contractor within ninety days from the performance of the last of said work or the delivery of the last of the material for which suit is brought, but contains the qualification that this requirement has no application where such work or materials were furnished under a contract, express or implied, between the claimant and persons who entered into the contract with the City of Philadelphia. No suit may be brought upon this bond after the expiration of one year from the date on which the last of the materials were furnished and labor per-

formed for which claim was made.

A person who furnishes labor and material required in the construction or repair of a school edifice in Philadelphia County may sue on the additional bond only if he has complied with Rule XIX of the Board of Public Education, which provides that, before instituting suit, claimant must furnish proof satisfactory to the Secretary of the Board of Education that written notice of the delivery of the material or the labor performed has been given to the principal or surety within ninety days. Bonds taken by this school district contain the limitation that no suit shall be brought upon the same after the expiration of two years from date.

Reasonable limitations restricting the time for suit or requiring notice, contained in the additional bond, not inconsistent with existing legislation, have been held binding upon persons who seek to claim the benefit of the bond: *Scranton School District v. Casualty and Surety Co., 98 Pa. Superior Ct. 599 (1930).*

After considerable study of the legislation and decisions throughout the United States, and after many conferences with materialmen, contractors, representatives of surety companies and other parties in interest, there were introduced in the legislature a number of bills designed to make uniform and clarify the law in this state. This legislation retains the sound principle of an additional bond. Hence, the rights of the materialmen and the municipality are independent. The penal sum named in the additional bond is sufficient to afford adequate protection in all normal cases, and, since the rights of the municipality are preserved under the primary or performance bond, materialmen need not fear that the penal sum named in the additional bond will be consumed by prior claims.

Since the laws with reference to most subdivisions in this state have been assembled in codes, instead of in a single act for the Commonwealth and all political subdivisions thereof, it was necessary to introduce a number of bills, each making it the duty of the municipality under consideration to require any person, copartnership, associa-

tion or corporation entering into a contract with such municipality for the construction, erection, installation, completion, alteration, repair of or addition to any public work or improvement of any kind whatsoever, where the amount of such contract is in excess of $500,[2] before commencing work under such contract, to execute and deliver to such municipality, in addition to any other bond which may be required by law to be given with such contract, an additional bond for the use of any and every person, copartnership, association or corporation interested in a sum not less than 50 per cent. and not more than 100 per cent. of the contract price, the surety thereon to be one or more surety companies, legally authorized to do business in this Commonwealth, conditioned for the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material and labor enter into and become component parts of the work or improvement contemplated.

It is believed that since these acts have become the law persons furnishing oil, coal, explosives or false-work of any kind used in connection with the public improvement and required by the plans and specifications will have the right to sue on the additional bond and that the protection under the additional bond will not be limited to labor and material which become a component part of the completed structure: *Com. v. Aetna Casualty Co., 101 Pa. Superior Ct. 314 (1931).* Such a coverage is reasonable and

[2]The Administrative Code requires a bidder to whom a contract for the construction or repair of a public building has been awarded to substitute for the certified or bank check which accompanied his proposal, within ten days after such award, an additional bond of the kind just referred to: Act of April 9, 1929, P. L. 177, section 2408 (h), as amended by Act No. 144, approved June 1, 1931.

Section 508 of the Administrative Code of 1929 provides that no administrative department except the Department of Property and Supplies and no administrative board or commission, except as in said act specifically otherwise provided, shall contract for the erection or construction of any new building or contract for making any alteration or addition to any existing building involving an expenditure of more than $10,000.

logical and is supported by the weight of authority throughout the United States.

It will be noted that the primary bond with the additional clause is no longer required in connection with state highway work, but that, by the 1931 amendment to the Highway Act (Act No. 353), an additional bond with the broad coverage of the 1929 amendment must be taken.

While the premium on surety bonds is based upon the contract price, and, hence, is the same whether the additional bond is for 50 per cent. or 100 per cent. of the contract price, the legislature has left the amount of the bond to the discretion of the municipal officers, subject to the limitations above quoted.

The new statutes further require that the additional bond be deposited with and held by the obligee for the use of any party interested therein and that every such additional bond shall provide that every person, co-partnership, association or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work and who has not been paid therefor may sue in assumpsit on said additional bond in the name of the municipality for his, their or its use and benefit, prosecute the same to final judgment for such sum or sums as may be due him, them or it, and have execution thereon, provided, however, that the municipality shall not be liable for the payment of any costs or expense of any such suit.

This legislation reenacts the existing law that the right of recovery is not restricted to subcontractors: *Merion School District v. Evans, 295 Pa. 280 (1929); Eddystone School District v. Lewis, 98 Pa. Superior Ct. 227 (1929).* However, the general contractor and the surety now have reasonable protection against double payment by the requirement of notice inserted in Act No. 294. This act by section one, defines the word "municipality" as used therein to mean and include counties, cities, boroughs, incorporated towns, townships, school districts, poor districts or any other incorporated district, and, by section two, provides that, whenever the Commonwealth of Pennsylvania,

acting by or through any department or agency thereof or any municipality therein, shall require any person, copartnership, association or corporation entering into a contract with such department, agency or municipality to execute and deliver an additional bond conditioned for the payment of material furnished and labor supplied or performed in the prosecution of any public work or improvement, then, in such event, every person, copartnership, association or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of such public work or improvement, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated, and who has not been paid therefor, shall have the right to sue in assumpsit on said additional bond in the name of the Commonwealth where the said contract has been entered into with any department or agency thereof, and in the name of the municipality where the said contract has been entered into with such municipality, for his, their or its use, to prosecute the same to final judgment for such sum or sums as may be justly due him, them or it, and to have execution thereon, provided, however, that such department, agency or municipality shall not be liable for the payment of any costs or expense of any suit.

Section three reads: "No such suit shall be commenced prior to ninety days from the date upon which the said person, copartnership, association or corporation furnished, supplied or performed the last of the material or labor for which said claim was made, and such suit shall be commenced not later than one year from the date of final settlement under said contract with the Commonwealth acting by or through its said department or agency or with the municipality."

It will be observed that this section meets the objection to the federal statute and to the old state highway law. Materialmen in this state will no longer be required to defer their demands for payment until six months after the acceptance of the public improvement. The words "final settlement" have been construed by the Supreme

Court of the United States to relate to the time when the amount due the contractor is determined by the proper governmental administrative agency, irrespective of the time when final payment is actually made to the contractor: *Illinois Surety Co. v. United States, 240 U. S. 214 (1916).* It is sincerely hoped that this interpretation, followed by the appellate courts in every state where the issue has arisen, will receive the same construction by our appellate courts.

Section four is as follows: "Any such person, copartnership, association or corporation who has no contractual relationship, express or implied, with the contractor furnishing the said additional bond shall not have a right of action upon said additional bond unless the said person, copartnership, association or corporation shall have given written notice to said contractor or to his, their or its surety not later than ninety days from the date on which the said person, copartnership, association or corporation furnished, supplied or performed the last of the material or labor for which the said claim is made, stating with substantial accuracy the amount claimed and the name of the party with whom the said person, copartnership, association or corporation contracted. Said notice shall be served either in the manner now or hereafter provided by law for the service of a summons, save that service need not be made by the sheriff, or by mailing said notice by registered mail postage prepaid in an envelope addressed to the contractor at the contractor's last known place of business or residence or to the surety at any of its offices or places of business."

It will be observed that this provision is substantially similar to the Philadelphia ordinance. Thus, no notice is required for materials furnished to the principal contractor: *City of Philadelphia v. Keenan, 100 Pa. Superior Ct. 257 (1930).*

Section five of this procedure act is as follows: "Every person, copartnership, association or corporation, upon application to such department, agency or municipality stating that the applicant has furnished, supplied or per-

formed material or labor in the prosecution of the work as above provided and that payment has not been made therefor, shall be promptly furnished at the cost of the applicant with a certified copy of the said additional bond and contract. A copy of said additional bond or contract, certified as aforesaid, shall be *prima facie* evidence of the contents and due execution and delivery of the original."

The sentence making such a certified copy of the bond and contract *prima facie* evidence of the contents and due execution and delivery of the original was taken from the Georgia Code of 1926, section 389 (4), Missouri Revised Statutes of 1919, chapter 8, section 1041, and Nevada Act of March 26, 1913, chapter 407, section 2: *Southern Surety Co. v. Dawes, 161 Ga. 207, 130 S. E. 577 (1925).*

The additional bond statutes approved by the Governor are the following:

Act No.	*Pertaining to*
130	School Code.
144	Administrative Code.
145	Boroughs.
146	Counties of the second to the eighth class.
293	Counties of the first class, cities, incorporated towns and poor districts.
294	Procedure.
331	Townships, first class.
353	State Highway Act.

The Governor vetoed the code pertaining to townships of the second class (House Bill No. 670, Senate Bill No. 487, Veto No. 172). This veto was brought about by amendments inserted at the last moment having no connection with the proposed bond legislation, which bond legislation, of course, met with the Governor's approval. Under these circumstances, the law making it the duty of township officials to take the bond is the Act of 1917, as amended March 28, 1929, P. L. 106. Nevertheless, the township officials have the authority to exact the broader form of bond now required to be taken by the state and all municipal divisions thereof, other than townships of the

second class: *Eastern School District v. Continental Casualty Co., 304 Pa. 67 (1931); Portland Cement and Gravel Co. v. Globe Indemnity Co., 301 Pa. 132 (1930).*

As a matter of fact, such a bond could be required by the township officials even in the absence of any legislation on the subject, so long as there is no statute expressly prohibiting such action: *Com. v. Empire State Surety Co., 50 Pa. Superior Ct. 404, 407 (1912); Diamond Match Co. v. United States, 31 Fed. 271 (1887).*

To obtain the desired uniformity, it is hoped that the public officials throughout the state will adopt, whenever possible, the same form of bond.

Foot note 3 contains a suggested form of bond prepared after a careful study of the forms adopted for use by the Commonwealth of Pennsylvania. Of course, the form of bond used by the Department of Property and

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[3]Additional bond for labor and material.

Know All Men by These Presents That we, the undersigned, _____ hereinafter called the "principal," and_____ a corporation organized and existing under the laws of the state of _____, having its principal office at _____ hereinafter called the "surety," are held and firmly bound unto (municipality) for the use of any and every person, copartnership, association or corporation interested in the full and just sum of _____ Dollars ($_____), lawful money of the United States of America, to be paid to the said obligees or its or their assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally firmly by these presents.

Sealed with our respective seals and dated this _____ day of _____, A. D. 19_____.

Whereas, the above bounden principal has entered into a contract with (municipality) dated the _____ day of _____, A. D. 19_____, for the (state work) at (state place),

Now, therefore, the condition of this obligation is such that, if the above bounden principal shall and will promptly pay or cause to be paid all sums of money which may be due any person, copartnership, association or corporation for all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor enter into and become component parts of the work or improvement contemplated, then this obligation to be void, otherwise to remain in full force and effect.

Supplies pertains to buildings, whereas the form used by the Highway Department pertains only to public work of the kind under its jurisdiction.

Act No. 321, approved June 23, 1931, removes the only reasonable objection to the additional bond legislation. The point was raised that since, in a number of states, the contractor is required to furnish one bond which is not only a performance bond but which contains, as an additional obligation, the requirement that just claims of labor and materialmen be promptly paid, many officials in Pennsylvania would continue to take such a bond in ignorance of the decisions that laborers and materialmen may not sue in their own names on such a bond. While these principles of law have become well known in recent years, nevertheless, Act No. 321 provides that where but one such bond is taken, irrespective of whether such bond or any provision therein shall have been required by statute, ordinance or

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The principal and surety further jointly and severally agree with the obligee herein that every person, copartnership, association or corporation who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work as above provided and who has not been paid therefor may sue in assumpsit on this bond in the name of (municipality) for his, their or its use, prosecute the same to final judgment for such sums as may be justly due him, them or it, and have execution thereon, provided, however, that (municipality) shall not be liable for the payment of any costs or expense of any such suit.

Recovery by any person, copartnership, association or corporation hereunder shall be subject to the provisions of the Act of the General Assembly No. 294, approved June 22, 1931, to the same extent as if said provisions were fully incorporated in this bond.

It is further agreed that any alterations which may be made in the terms of the contract or in the work to be done or materials to be furnished or labor to be supplied or performed under it or the giving by (municipality) of any extension of time for the performance of the contract or any other forbearance on the part of either (municipality) or the principal to the other, shall not in any way release the principal and the surety or sureties or either or any of them, their heirs, executors, administrators, successors or assigns, from their liability hereunder, notice to the surety or sureties of any such alteration, extension or forbearance being hereby waived.

In Witness Whereof the said principal and surety have duly executed this bond under seal the day and year first above written.

any other authority and *where no separate or additional bond conditioned for the payment of material furnished or labor supplied or performed in connection with such public work has been taken,* then, and in such event, every person who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in connection with such public work or improvement and who has not been paid therefor shall have the right to sue on, and to intervene in a suit on, such bond, subject, however, to the priority of the claim and judgment of the Commonwealth or municipal obligee, if any.

The provisions of this act are substantially similar to the Heard Act and the old State Highway Act. However, it provides that where the principal contractor shall have for any reason failed to complete performance of his contract and completion of the project is undertaken by the Commonwealth, the municipality or the surety, either by themselves or by letting of new contracts, the six-month period must expire before suit may be brought and the one-year period within which such action must be brought by subcontractors, materialmen and laborers shall date from the completion and acceptance of the project covered by the original contract and bond. For the purpose of such suits, the date of such completion shall be fixed by the officers of the Commonwealth or the municipality. Written notice of the date of such completion is required to be given to all persons who shall theretofore request such notice.

Section two of this statute is as follows: "Whenever heretofore a contractor in connection with any public work or improvement and his, their or its surety has assumed in a bond given to the Commonwealth of Pennsylvania the obligation to pay all lawful claims of subcontractors, materialmen and laborers for labor performed and materials furnished in connection with such public work or improvement, then, in such event, the remedies as provided by section one of this act shall extend to every such subcontractor, materialman and laborer."

As litigation will be instituted in the near future to determine the rights of persons who furnished labor or material used in the construction of buildings erected for the Commonwealth of Pennsylvania under a bond which contains the condition referred to in this section, the writer will not comment upon the issues involved, other than to point out that Act No. 321 requires the litigation to be consolidated in a single suit.

The constructive legislation just reviewed is being considered in a number of other states, and it is hoped that, in due course, the Pennsylvania system will be adopted as the basis of a uniform bond law for the entire United States.

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