

Hon. Mr. Reeves.

PUBLIC TENDERS, CONTRACTS, AND WORKS.

ANALYSIS.

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A BILL INTITULED

AN ACT to limit Undue Competition in Tendering and otherwise, and to insure Fair Wages and Working-hours in Public Contracts and Works. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Public Tenders, Contracts, and Works Act, 1895." Short Title.

10 2. In this Act, if not inconsistent with the context,—  
"Workman" means any person of either sex employed for hire to perform any species of skilled or unskilled manual labour. Interpretation.

15 3. This Act shall apply to all tenders called for and all contracts entered into by or on behalf of Her Majesty's Government, or any local authority, as contractee, for the construction of public or other works involving the employment of workmen, or the making of boots, shoes, or clothing, by any person, firm, or company, as contractor; but shall not apply further or otherwise. Extent of Act.

20 (1.) *Tenders.*

4. There shall be no obligation to accept the lowest or any tender. Acceptance of tender.

5. (1.) Every tenderer shall be required to embody in his tender:— Declaration as to working hours and rates of wages.

25 (a.) A declaration that in the carrying out of the contract he will observe such working hours of labour for each working day, and pay such rates of wages for working hours and for overtime respectively, as are generally accepted as usual and fair in the trade or class of labour to which they relate:

(b.) A list containing the names of the various classes of labour which he intends to employ, and the minimum rates of wages and maximum working hours of labour for each working day to be paid and observed in respect to each class of labour.

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Must be the usual.

(2.) No tender shall be accepted if the contractee has reason to believe that the rates of wages and the working hours specified in such list are not the rates and hours generally accepted as usual and fair in the trade or class of labour to which they relate.

Tenders not in accordance with Act void.

6. Every tender not in accordance with the provisions of this Act, and every acceptance thereof, and every contract or agreement arising out of such tender or acceptance, shall be void for all purposes whatsoever.

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(2.) *Contracts.*

Contractor to observe usual hours and pay usual wages.

7. In the carrying out of his contract, whether entered into pursuant to tenders or not, the contractor shall be liable to observe the working hours of labour, and pay to his workmen the rates of wages for working hours and for overtime, generally accepted as usual and fair in the trade or class of labour to which they relate, any contract or agreement at any time made with any workman to the contrary notwithstanding.

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Contractor not to assign contract.

8. The contractor shall not assign or make over his contract to any person without the previous consent in writing of the contractee.

Conditions implied in every contract.

9. In every contract, whether entered into pursuant to tenders or not, there shall be implied the stipulations and conditions mentioned in the Schedule hereto.

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Contractor not to make sub-contract except as to special portions.

10. The contractor shall not make a sub-contract with any workman or other person for the execution of any part of the earthwork, groundwork, brickwork, ironwork, masonry, joinery, carpentry, painting, cartage, boot-making, shoe-making, clothes-making, or any other skilled or unskilled manual work appertaining to the contract, but shall employ his own workmen therefor and pay them in wages :

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Provided that the contractee shall have power to permit the contractor to sublet such special portions of the work as in the opinion of the contractee would not be produced or executed by the contractor in the ordinary course of his business.

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Contractor liable for defaults of sub-contractor.

11. No sub-contract shall operate to relieve the original contractor from any of his liabilities or obligations under the original contract or this Act, but he shall be responsible for all the acts, defaults, and neglects of the sub-contractor as fully as if they were his own.

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Liabilities and conditions imposed on sub-contractor.

12. Without in any way limiting the operation of the last preceding section, it is hereby declared—

(1.) That all the stipulations, obligations, conditions, and liabilities by this Act or the contract imposed upon a contractor, shall, in the case of a sub-contract, be deemed to be imposed upon the sub-contractor, and may be enforced by the contractee against such sub-contractor accordingly :

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(2.) That in every sub-contract there shall be implied a covenant by the sub-contractor with the original contractor that the sub-contractor will carry out his sub-contract subject to and in accordance with the stipulations and conditions of the original contract and this Act.

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13. Every contractor, shall at the time of signing the contract, enter into a bond with a sufficient penalty, and (if required) with sufficient sureties, for the due fulfilment of his contract according to the terms thereof and the provisions of this Act; and such penalty shall, in case of default, be recoverable as liquidated damages in any Court of competent jurisdiction.

Every contractor to enter into bond.

(3.) *Co-operative System.*

14. Notwithstanding anything in any Act contained forbidding local authorities to make certain contracts except after public tender, it shall be lawful for any local authority to make any contract for work or labour to be done on the co-operative system (meaning thereby at a price and subject to conditions fixed by the local authority) to any value or amount without calling for public tenders, or to itself carry out such work or employ such labour, without the intervention of a contractor.

Local authority may let contracts on co-operative system.

15. (1.) Every local authority shall keep at its town hall or other principal office a list of the rates of wages and the hours of labour to be paid and observed on works which are to be done on the co-operative system, or which the local authority resolves to carry out without the intervention of a contractor.

Local authority to keep list of rates of wages and hours of labour.

(2.) The list shall be based on the rates of wages and hours of labour generally accepted as usual and fair in the trade or class of labour to which they relate, and shall at all reasonable times be open to public inspection.

25 (4.) *Court of Arbitration.*

16. For the purposes of this Act, and on the petition of any industrial union or association of workmen or employers, the Governor, by Order in Council gazetted, may, if he thinks fit so to do, refer to the Court of Arbitration to inquire and report, in respect of any specified trade or class of labour,—

Governor may refer to Court of Arbitration as to hours and wages.

(1.) The number of working-hours that should constitute a working-day, and the rate of wages that should be paid therefor:

(2.) The rate of wages per hour that should be paid for overtime.

35 17. The Court shall thereupon proceed to inquire and report accordingly, and for that purpose shall have the same powers and functions as if the subject-matter were an industrial dispute duly referred to the Court of settlement.

Court to inquire and report.

40 18. For the purpose of such inquiry and report, the following provisions shall apply:—

Procedure with respect to inquiry.

(1.) Within ten days after the gazetting of such Order in Council, the Clerk of the Court shall publish in the *Gazette*, at least twenty-eight days' notice of the time and place of the sitting of the Court at which the inquiry will begin:

45 (2.) There shall be no formal parties to the proceedings; but the Court shall take all such evidence as is adduced, or as it may think necessary in order to show what hours of labour and rates of wages are generally accepted as usual and fair in the trade or class of labour to which they relate, and generally all such evidence as will assist the Court to come to a fair and equitable conclusion.

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(3.) The report shall set forth the opinion of the Court as to what working hours should in fairness and equity be observed, and what rates of wage should in fairness and equity be paid in the several trades and classes of labour to which they relate.

Governor to give effect to report.

19. The President shall forward the report to the Governor, who shall give the effect of law thereto by Proclamation.

Hours of labour and rates of wages in Proclamation to be observed.

20. From the date of the gazettement of such Proclamation and until the revocation thereof, the hours of labour and rates of wages as therein set forth shall, for all the purposes of this Act, be deemed to be the hours and rates which are generally accepted as fair in the trade or class of labour to which they relate, and they shall be observed and paid accordingly.

Not to be revoked for twelve months.

21. Such Proclamation shall not be revoked or altered for a period of at least twelve months after the gazettement thereof.

Construction of Act.

22. This Act shall be read with "The Industrial Conciliation and Arbitration Act, 1894."

Schedule.

#### SCHEDULE.

1. (1.) THE contractor shall at all times during the continuance of this contract keep posted up in some conspicuous place upon the site of the works, and in such a position that the same may be easily read, a schedule setting forth—

(a.) The rate of wages paid for working hours and for overtime ;

(b.) The number of working hours in each working day.

(2.) Such schedule shall be corrected from month to month.

2. The contractor shall, to the satisfaction of the contractee, provide and keep proper books, in which shall be promptly and correctly entered from time to time the names of and the wages paid to, and the working hours observed by, all such workmen as aforesaid, and shall, as often as required, produce such books to be inspected by any person appointed in that behalf by the contractee, and shall allow such person to take copies thereof or extracts therefrom.

3. If the contractor commits any breach of any of the foregoing stipulations he shall for each day during which such breach continues pay to the contractee on demand as liquidated damages, and not as a penalty, the sum of *five* pounds ; and the same may, at the option of the contractee, be either recovered from the contractor by action or be deducted and retained by the contractee out of any moneys due or to become due to the contractor under the contract.