

Hon. Mr. Reeves.

WORKMEN'S WAGES.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend the Law relating to Workmen's Wages, and to make better provision for securing the payment thereof. 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 Workmen's Wages Act, 1893." Short Title.

10 2. In this Act, if not inconsistent with the context,— Interpretation.  
"Clerk of Court" means the Clerk of the Resident Magistrate's or District Court, and includes the Registrar and Deputy Registrar of the Supreme Court:

"Contractee" means the employer of the workmen's employer:

15 "Contractor" means the employer of workmen:

"Court" means the Court in which any proceeding may be taken under this Act, and includes the Judge of any such Court, and a Resident Magistrate in any matter in which such Resident Magistrate has jurisdiction:

"Employer" means any contractor, sub-contractor, or other person employing a workman as herein defined :

"Wages" includes any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, remuneration, or consideration for any service, work, or labour rendered or done, or to be rendered or done, whether within a certain time or to a certain amount, or for a time or an amount uncertain, and whether payable daily, weekly, or monthly :

"Workman" means any person, male or female, and whether under or above the age of twenty-one years, in any manner engaged or employed in work of any kind, or in manual labour, and whether his or her remuneration is to be according to time or by piece-work, or at a fixed price, or otherwise howsoever.

Workmen employed in manual labour to be paid weekly.

3. In the absence of an agreement in writing to the contrary, the entire amount of wages earned by or payable to any workman engaged or employed in manual labour shall be paid to such workman at intervals of not more than one week if demanded.

Wages to be first charge on money due to or in hands of contractor.

4. The wages due to workmen employed on any contract, work, or undertaking shall, subject to the contractee's rights as mentioned in section *fifteen* hereof, be a first and paramount charge upon the moneys due to the contractor by the contractee under or in respect of the contract, work, or undertaking : Provided that until service of notice of attachment, as hereinafter mentioned, the contractee shall be at liberty to pay to the contractor all moneys which have accrued due and are payable by the contractee to the contractor under or in respect of the contract, work, or undertaking.

Assignment of money due or received under contract to have no effect until wages paid to workmen.

5. Every assignment, disposition, or charge (legal or equitable) made or given by the contractor to any person whomsoever, other than his workmen for wages due to them, of or upon the moneys due or to become due to him under or in respect of the contract, work, or undertaking shall have no force or effect at law or in equity until all wages due and to accrue due to the workmen have been fully paid and satisfied.

Moneys received by contractor not to be attached, and to be applied in payment of wages due.

6. All moneys received by the contractor from the contractee under or in respect of the contract, work, or undertaking shall not be liable to be attached or charged, except by the workmen as hereafter mentioned, until all wages due or to accrue due to the workmen have been fully paid and satisfied ; and the contractor shall apply all such moneys in payment of the wages due and to accrue due to the workmen.

Contractor to keep accounts and to produce same to workmen.

7. The contractor shall keep a full and truthful account in writing of all such moneys received by him as aforesaid, and of the manner in which the same are disbursed or disposed of, and shall, on the application of any workman whose wages are in arrear, produce such account to such workman for his inspection, and such workman shall be at liberty to take a copy of or extracts from the said account.

Contractee not to pay contractor in advance.

8. The contractee shall not pay the contractor in advance, and in any proceedings by workmen against the contractee under this Act the contractee shall not be entitled to set off any such payments against the wages due to and claimed by the workmen.

9. Any workman whose wages remain unpaid for twenty-four hours after they become due may serve the contractee, or his attorney or agent, with a notice of attachment in the Form No. 1 set forth in the Schedule hereto, or to the effect thereof; and upon service thereof all moneys due and thereafter to become due and payable to the contractor shall be attached, and shall be retained by the contractee until the Court shall direct to whom and in what manner the same are to be paid.

Workman whose wages are in arrear may attach moneys in hands of contractee.

10. In the event of the workman obtaining judgment against his employer for the wages claimed, or any part thereof, he may obtain from the Court and serve upon the contractee, or his attorney or agent, an order for the payment of the amount of the judgment in the Form No. 2 set forth in the said Schedule hereto, or to the effect thereof.

Workman obtaining judgment against the employer, Court may order contractee to pay him.

11. After service of such order, and until a discharge for the amount mentioned therein in the Form No. 3 in the Schedule hereto, or to the effect thereof, is produced to and a copy thereof left with the contractee, the contractee shall pay the workman the amount stated in the order out of the moneys attached; but no such payment shall be made to any workman under this section by the contractee until the expiration of seven days after the service of such order.

Contractee to pay workman when ordered.

12. All moneys attached as aforesaid shall be paid by the contractee in priority according to the order of the service of the notices attaching such moneys; but all notices served within seven days of the first of such notices of attachment shall be deemed to be served simultaneously, for the purpose of securing the equal distribution of the moneys attached amongst all workmen serving such notices within the aforesaid seven days.

Demands of workmen to be paid according to priority of notice.

13. All demands for wages of workmen who serve simultaneous notices as aforesaid shall rank equally among themselves, and shall be paid in full, unless the moneys attached in the hands of the contractee are insufficient to meet them, in which case they shall abate in equal proportions between themselves.

Notices served within seven days deemed to be simultaneous.

Simultaneous notices to rank equally among themselves.

14. The contractee served with an order or orders under this Act shall not be liable to make good any demand made upon him to a greater extent than the sum which is actually due and owing by him to the contractor at the time of the service of such order or the payment thereunder.

Contractee served with notice liable only for amount due by him to contractor.

15. If the contractee served with notice of attachment and order for payment shall fail to pay as aforesaid, the workman may sue for and recover in his own name in any Court having jurisdiction in the matter the moneys attached by any proceeding which his employer might have taken had there been no attachment under this Act, subject to the right of the contractee to set off against the workman's demand all moneys properly paid by the contractee to the contractor under the contract prior to the service of the notice of attachment; and also all moneys not being penalties in the nature of liquidated damages which the contractor was at the time of the service of the notice of attachment liable to pay to the contractee under the contract, or in consequence of any breach or non-performance thereof.

On failure to pay workman may sue person served with notice.

16. Upon satisfaction of the workman's demand mentioned in any order for payment under this Act, or on the setting aside of such order, any attachment of moneys effected under this Act shall cease

On satisfaction of demand, attachment of moneys to cease to operate.

to be operative, but without prejudice to any *bona fide* payment by the contractee served with an order for payment in accordance with such order previous to his receiving notice of such satisfaction or setting aside of the order.

Workman upon payment to sign a discharge.

17. The workman shall, upon the request of the person paying to him the demand specified in any order for payment under this Act, and at the time of receiving the same, sign a discharge therefor in the said Form No. 3 set forth in the Schedule hereto or to the effect thereof. 5

Act not to affect other remedies or vary rights between parties.

18. Nothing in this Act contained shall be construed to prejudice any other remedy which a workman may have against his employer in respect of the debt due to him, or, save as expressly provided, to affect any right subsisting under any contract between any employer of labour and the person employing him. 10

Power of Court to determine all questions, &c.

19. The Court shall have full power to inquire into, adjudicate upon, adjust, and settle in a summary manner all questions and disputes arising between the contractor and contractee, or between workmen and the contractor or contractee, or between the workmen *inter se*, and may summon before it and examine the parties and their witnesses, and may vary and rescind all such orders, and give all such directions respecting the matters brought before it as it may consider necessary. 15

Court may award costs.

20. In all proceedings under this Act the Court shall have power to award costs to any of the parties to such proceedings.

Rules of Court to apply.

21. All proceedings in any Court under this Act shall be subject to the rules of the Court for the time being in force relating to other proceedings in the Court, so far as the same can be, and the Governor in Council may from time to time, subject to the provisions of this Act, make, revoke, and alter rules for carrying into effect the objects of this Act. Such rules shall be published in the *New Zealand Gazette*, and shall come into force on the date of such publication. 25

Power to Governor to make rules.

22. All notices, orders, or documents by this Act required to be served on any person shall be served either personally or by registered letter addressed and posted to the last-known place of abode or business of such person, or shall be served in such manner and upon such person as the rules direct, or as the Court or the Judge thereof shall in any particular case by memorandum endorsed on the notice, order, or document served, direct. 30

Service of orders, notices, &c.

23. If the contractee or the employer of any workman shall, by himself or the agency of any other person or persons, contravene or fail to comply with any of the provisions of this Act, such contractee, employer, or agent shall be deemed guilty of an offence under this Act, and be liable to a penalty not exceeding *fifty* pounds, or to imprisonment, with or without hard labour, for a period not exceeding *three* months. 35

Penalties.

(1.) Where an offence for which an employer or contractee is by virtue of this Act liable to a penalty has, in fact, been committed by some agent of the employer or contractee, or other person, such agent or other person shall be liable to the same penalty as if he were the employer or contractee. 40

Penalty on agent of employer.

(2.) Where an employer or contractee is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender 45

If person other than employer guilty of offence, power of employer to exempt

him, to have any other person whom he charges as the actual offender 50

