

Opinion No. 31-277

September 21, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. Ralph E. Davy, Labor Commissioner, Santa Fe, New Mexico.

{*106} In your letter of September 19, 1931, you ask the following question:

"Kindly advise as to whether or not Chapter 20, Session Laws 1931 can be enforced on Federal building projects within the state."

The first thing to be considered is whether the Legislature intended said Act to apply to public works of the United States. Section 3 of said Act reads as follows:

"Every written contract for the construction, erection, alteration, repair or maintenance of any public work, falling within the purview of this act, shall contain such provisions relating to the employment of labor upon such public works as comply with the provisions of this act."

Obviously the Legislature of this State is without power to dictate the terms of contracts entered into between the United States and a third party. Hence, it is apparent that the Act, as a whole, was not intended to regulate the erection of public works by the Federal Government.

I do not believe that the Legislature has power to thus regulate the employment of labor on public works of the United States. In this connection the following dictum of the Court in U. S. vs. San Francisco Bridge Co., 88 Fed. 891, is pertinent.

". . . the sovereignty of the state does not extend to matters connected with or incident to the construction of public works of the United States;"

I am, therefore, of the opinion that your inquiry should be answered in the negative.

By: Quincy D. Adams,

Asst. Attorney General