

Public Works Act

contracts. So he takes out the third exception which reads as follows:

Where the estimated cost of the work is less than five thousand dollars and it appears to the minister, in view of the nature of the work, that it is not advisable to invite tenders.

That provision is being removed entirely. In some other bills—and I think particularly of the National Harbours Board Act—there is a provision for a figure of \$10,000 instead of \$5,000. I do not believe anyone would have very much objection to the insertion of a figure higher than \$5,000. But the weakness of this bill is that it takes out any ceiling at all.

What does it do? In place of the ceiling it gives the minister of the department concerned wide-open powers reading as follows:

Where the minister is satisfied that the nature of the work renders a call for tenders by public advertisement impracticable and that the public interest can best be served by entering into a contract for the execution thereof without inviting such tenders.

That new subsection takes the ceiling out of the Public Works Act and says, in effect, that any minister whose department is to construct works can, if he so wishes, let contracts without tenders. That, we believe, is a very serious change.

The minister suggested—I noticed he was smiling at the time—that the government believes in the principle of asking for tenders. Yet under this new subsection the system of asking for tenders is just being thrown out the back window.

Subsection 2 of section 36 of the Public Works Act as it stands on the statute books today reads:

Whenever in case of any work tenders are required to be, or are invited, the minister having charge of the department concerned shall submit all tenders received therefor to the governor in council and the contract for the work shall be awarded under the direction of the governor in council.

That means that wherever tenders are called the contract must have the approval of the governor in council. That salutary provision is also being taken out of the act.

It may be said that the whole situation is being taken care of by section 39 of the Financial Administration Act just passed which provides that the governor in council, which of course is the cabinet, may—they are not compelled to do—make regulations setting a ceiling on contracts over which tenders must be called. It must be remembered that section is merely permissive, and that the treasury board as well as the cabinet are given power to approve any contract even though tenders are not called.

In his explanation the minister said this bill was all right because he was being put further under the control of the governor in

council and the treasury board than he had ever been before. We would like to see him a little bit under the control of parliament, and I am referring not only to the Minister of Public Works but to the ministers of all other departments which let contracts. Parliament should not be deprived of the right under the Public Works Act to put on a ceiling over which no contract can be let other than by tender.

The Public Works Act is the master act covering public works of all kinds. As I pointed out, the section applies to all departments. There have been similar restrictions imposed from time to time, even in the Defence Production Act which was passed at the last session. Under that act limitations were imposed on the Minister of Defence Production, and believe me when the government can impose any limitation on him there must be a good case made out. Also it must be remembered that he is dealing with defence works for which there is far more justification for not following the tender system. Section 17 of that act provides:

(e) a contract may be entered into by the minister without the approval of the governor in council if

(i) in the opinion of the minister, the contract must be entered into immediately in the interests of defence,

(ii) the estimated expenditure, loan or guarantee does not exceed twenty-five thousand dollars, or

(iii) competitive tenders have been obtained and the lowest tender, involving an estimated expenditure not exceeding fifty thousand dollars, is accepted,

but the minister shall make a report to the governor in council in respect of any contract involving an estimated expenditure, loan or guarantee exceeding ten thousand dollars and entered into without the approval of the governor in council.

In all other cases under that act the minister must have the prior approval of the cabinet.

I propose to illustrate our objection to this bill by referring to what happened in connection with the Alvin building in Vancouver, about which the Minister of Public Works has heard on more than one occasion. The department decided that they wanted an office building in Vancouver. Friends of the government, and I repeat that, obtained some land and built a building. I believe they were assisted in financing that building by the fact that they had an agreement with the government. They had their own contracting company. Without calling for tenders the government made a deal with these people. Order in council P.C. 1382, of April 6, 1948, passed on the recommendation of the Minister of Public Works and with his report before them dated March 27, 1948, sets out that an offer had been obtained from Alvin Estates