The original documents are located in Box 2, folder "Common Situs Picketing - Transcripts of Hearings (3)" of the Richard B. Cheney Files at the Gerald R. Ford Presidential Library.

AFTER RECESS

(The subcommittee reconvened at 2:25 p.m., Hon. Frank Thompson, Jr., Chairman of the subcommittee, presiding.)

Mr. Thompson. The subcommittee will be in order.

We are very grateful to our next witness, Mr. Robert Georgine, who is the President of the Building and Construction Trades Department, AFL-CIO, for his indulgence in this morning's session.

Please proceed as you wish. We have your statement and, without objection, the full statement will be made part of the record at this point.

[The statement referred to follows:]

STATEMENT OF ROBERT A. GEORGINE, PRESIDENT, BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL-CIO; ACCOMPANIED BY LOUIS SHERMAN, GENERAL COUNSEL; AND DAN MUNDY, LEGISLATIVE DIRECTOR

Mr. Georgine. Thank you very much for the opportunity to appear before you today.

At the outset, I would like to request permission from the Chair to submit for the record the statements of the following organizations:

The AFL-CIO Executive Council; the Maritime Trades Department of the AFL-CIO; the Metal Trades Department, the Carpenters International Union; the United Association of Plumbers and Pipefitters; the Bricklayers Union; the International Union of Painters; the Brotherhood of Railway Car Men of United States and Canada; the Office and Professional Employees International Union; the Fire Fighters International Union; the International Printing and Graphic Communications; the United Paper Workers International Union; the Retail and Wholesale Department Store Union; the Retail Clerk International Union; the Amalgamated Meat Cutters and Butchers Union; the Communications Workers of America; the Building and Construction Trades Department resolution and the resolutions of 53 Building Trades Councils throughout the United States.

Mr. Thompson. Without objection, all of those statements

will be made part of the record at this point, and please feel free to proceed in a dispassionate way, as we were importuned to do by the Secretary this morning.

[The material referred to follows:]

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Mr. Georgine. In order to understand the need for this legislation, it is necessary to review the laws governing secondary boycotts. In general terms, a secondary boycott can be defined as labor activity to influence an employer by exerting economic pressure against other persons who deal with that employer.

A secondary boycott should be distinguished from a primary boycott, which is a combination to exert pressure on any employer by refusing to deal with that employer himself. While primary boycotts are permitted under most circumstances, secondary boycotts have long been restricted, limited, and even prohibited outright because of their impact on neutral third parties.

In 1947, Congress included strict limitations on secondary boycotts in the Taft-Hartley Act. As the Supreme Court later noted, these provisions embody "the dual congressional objectives of preserving the right of labor organizations to bring pressure to bear on offending employers in primary labor disputes and of shielding unoffending employers and others from pressures in controversies not their own."

The secondary boycott provision of Section 8(b)(4)(A) of the 1947 Act was framed in terms of prohibited conduct and prohibited objectives (In 1959, the Act was amended by the Landrum-Griffin law, and the secondary boycott provision was renumbered as Section 8(b)(4)(B). These amendments, however, did not

affect the application of the section to the construction industry.) The 1947 Act prohibited union conduct which induced employees to engage in strikes or concerted refusals to work, where the objective was to force an employer to cease doing business with any other person. The Act provided for mandatory injunctive relief, and permitted money damages. The Act was phrased in general terms, however, and did not make clear the distinctions between prohibited secondary activity and protected primary activity. It was necessary for the National Labor Relations Board (NLRB) and the courts to spell out the differences on a case-by-case basis over the years.

Common situs picketing is picketing which takes place at a site where two or more separate employers are conducting their business. Although the most common examples are found at construction sites, common sites can include manufacturing plants where new construction or alterations are taking place, and dry docks where ships are built and repaired.

The problem of applying the secondary boycott prohibitions of the Act to these sites is this: if picketing is permitted against the primary employer, then it is likely that employees of the secondary employer will refuse to cross the line; but if picketing is not permitted, the union is denied its right under the Act to engage in concerted activities for the purpose of collective bargaining and mutual aid.

As a result, the NLRB, as early as 1950, adopted what are

now known as the Moore Dry Dock rules. That case involved a primary dispute between an employing ship and the union representing its crew, at a time when the ship was undergoing conversion in a dry dock owned by the secondary employer.

The Moore Dry Dock case was soon followed by the Denver Building Trades case, decided by the Supreme Court in 1951, 341 U.D. 674 (1951). In that case, a general contractor with a unionized workforce engaged a subcontractor who employed nonunion electricians at the jobsite. The building trades council objected to the use of nonunion workmen on the site. When the subcontractor refused to leave the job, the council placed a picket on the site. In response to this "signal," the union members in the general contractor's workforce walked out. After two weeks of picketing, the general contractor terminated the sub's contract. The subcontractor thereupon filed an unfair labor practice charge with the National Labor Relations Board. The case was carefully considered by the U.S. Court of Appeals for the District of Columbia Circuit, which unanimously held, in an opinion written by Judge Fahay, that there was no violation.

When the case reached the Supreme Court, the Council argued that it had engaged in a primary dispute with the general contractor alone, and had simply tried to get him to make the project an all-union job. The Court rejected this contention and ruled that the existence of the subcontract presented a

materially different situation.

In the Court's view, the only way which the Council could have attained its objective was to get the general contractor to terminate the subcontract. This constituted a prohibited object under the Act, since the Council's purpose was that of "forcing or requiring...any employer...to cease doing business with any other person;..."

Justice Douglas dissented in an opinion joined by Justice Reed. I quote:

> "The employment of union and nonunion men on the same job is a basic protest in trade union history. That was the protest here. The union was not out to destroy the contractor because of his antiunion attitude. The union was not pursuing the contractor to other jobs. All the union asked was that union men not be compelled to work alongside nonunion men on the same job. As Judge Rifkind stated in an analogous case, 'the union was not extending its activity to a front remote from the immediate dispute but to one intimately and indeed inextricably united to it.'
>
> "The picketing would undoubtedly have been legal if there had been no subcontractor involved -- if the general contractor had put nonunion men on the job. The presence of a subcontractor does not alter one whit the realities of the situation; the protest of

the union is precisely the same. In each the union men were employed. If that is forbidden, the Taft-Hartley Act makes the right to strike, guaranteed by §13, dependent on fortuitous business arrangements that have no significance so far as the evils of the secondary boycott are concerned. I would give scope to both §8(b)(4) and §13 by reading the restrictions of §8(b)(4) to reach the case where an industrial dispute spreads from the job to another front." 341 U.S. at 692-693.

The unfairness of the Denver Building Trades decision soon became apparent as the Board and the courts clarified the application of the secondary boycott provisions to other industries. In the words of the Supreme Court, the Board more or less felt its way during the first fourteen years in which it had to apply Section 8(b)(4)(A), and modified and reformed its standards on the basis of accumulating experience. Electrical Workers v. Labor Board, 366 U.S. 667, 674 (1961).

This case arose during the course of a strike at a General Electric plant. Management had established a separate entrance to the premises for all employees of subcontractors and had prohibited its employees from using that entrance. The striking G.E. employees picketed all entrances to the plant, including the entrance reserved for the independent contractors.

The NLRB ruled that this constituted a secondary boycott,

since the union's object was to force the independent contractors to cease doing business with the employer. The Supreme Court affirmed the Board's ruling, but added an important new requirement: "the work done by the men who use the separate gate must be related to the normal operations of the employer and must be of a kind that would not, if done when the plant were engaged in its regular operations, necessitate curtailing those operations."

In other words, the concept of relatedness was at the core of the Court's distinction between primary and secondary activity. If the separate entrance had been used by independent workers for regular plant deliveries, for example, the barring of picketing at that location would have been a clear invasion of the traditional primary activity of appealing to neutral employees whose tasks aid the employer's everyday operations.

On the other hand, if the independent workers perform tasks unconnected with the normal operations of the struck employer, such as construction work on his buildings, then limitations on picketing are consistent with the balance of competing interest established by Congress in the Act. In the latter situation, the prohibition on picketing would serve to isolate the innocent neutral employer, while not infringing on the union's right to exert primary pressure.

The National Labor Relations Board has held that the legality of picketing at a common situs in the construction industry

must be determined by the Moore Dry Dock standards, rather than by the guidelines laid down by the Supreme Court in the General Electric case, and that the work relationship case set forth in the G.E. decision is inapplicable to the construction industry. See, for example, Markwell & Hartz.

Although some members of the Board, and some federal judges, have dissented from this position, it remains the law under the Act. Nevertheless, it would be far more consistent, with the underlying intent of Congress to apply the relatedness test established in the General Electric case, rather than the strict terms of the Denver and the Dry Dock cases.

In the Denver case, the Court simply asked whether there was a legal contractual relationship between the employer and the subcontractor, not whether there was any degree of relatedness between them. Because the Board and the courts are not required to examine the degree of interrelatedness between the prime and subcontractors, the prohibitions against secondary boycotts are not limited to neutrals in the construction industry, but sweep up allied and closely related companies as well.

The construction trades unions have consistently maintained that the construction of a building is an integrated enterprise in which the subcontractors are interrelated allies of the prime contractor, rather than independent neutrals. The work relatedness of the various trades which, as shown in the

construction of a single building, is as great, if not greater, than in most other industries.

Yet, as stated by Judge Wisdom of the U.S. Court of Appeals for the Fifth Circuit, in his dissenting opinion in the Markwell and Hartz case:

> "The effect of the Board's decision is to apply more rigid standards to the construction industry than to the manufacturing industry. Any prime contractor would be able to frustrate the purposes of picketing by opening gates reserved for his subcontractors."

At an earlier stage in Markwell and Hartz, when it was before the NLRB, two highly experienced and able Members of the Board dissented from the majority decision. The criticism stated in the dissenting opinion of Member Fanning, which was joined by Member Jenkins, was voiced as follows:

> "It undoubtedly is too late in the day to argue that appeals to employees making deliveries to a primary employer in the construction industry are not legitimate primary activity. Certainly, it cannot be so argued on the faulty premise that Congress intended 'more lenient' treatment of picketing at industrial sites than it intended for picketing at sites in the building and construction industry. Indeed, if the special treatment accorded the building and

construction industry in Section 8(e) and 8(b)(4)(A) is considered, it could be argued that Congress intended that more 'lenient treatment' be given to secondary activity in building and construction industry than in manufacturing industries generally."

* * * *

"Significantly, Congress has not seen fit to distinguish between industries, by adopting a more narrow definition of the lawful scope of picketing in the construction industry than is permitted in other industries. Certainly, the economic pressure sustained by neutral subcontractors as a consequence of reserved gate picketing on a construction job is no different from that imposed by like conduct upon neutral subcontractors performing work on premises occupied by a struck manufacturer. Nor is it any different from the pressures sustained by neutral suppliers making deliveries to the struck primary employer whether he be a manufacturer or a general contractor in the building and construction industry. Accordingly, it is only by determining the legality of reserved gate picketing by standards generally applicable to all industries that the dual congressional objectives are served and the competing interests of picketing unions and secondary employers

protected.

* * * *

"In view of the foregoing, we find, contrary to the majority opinion, that the principles set forth in the General Electric decision, and the tests there enumerated by the Court for application of those principles, govern picketing in the construction industry as well as in other industries.

"As we believe, for reasons stated below, that the Court in those decisions applied principles of general application, we dissent from the majority's conclusion that the tests announced in General Electric for determining whether appeals to employees of neutral contractors constitute legitimate primary activity are not applicable to the building and construction industry."

It is highly unfair to deny the construction and building trades unions the benefit of the work relatedness test while making this policy available to other industries. The proposed bill, H.R. 5900, would eliminate this discriminatory treatment and enhance the uniformity of labor law in this area. We will now examine the provisions of H.R. 5900 to demonstrate how it will achieve this result.

H.R. 5900 would simply give the building and construction trades unions the picketing rights later accorded to unions in

other industries.

Reforms similar to those contained in H.R. 5900 have long had bipartisan support in both houses of the Congress and from the White House. Legislation similar to H.R. 5900 has been recommended by Presidents Truman, Eisenhower, Kennedy and Johnson.

Although many bills have been introduced, and the committee reports in both the House and Senate have been favorable, none has yet been voted on by the House or the Senate. One bill, H.R. 10027, introduced by Chairman Thompson, was reported favorably by the House Education and Labor Committee during the 89th Congress in 1966, but was later withdrawn from the calendar, apparently because of the issue of racial discrimination in construction.

This objection is not applicable to H.R. 5900, however, because the bill expressly provides that it may not be construed to authorize picketing where the objective is the removal or exclusion of an employee from the site on the grounds of race, creed, color, or national origin.

The bill, H.R. 5900, would permit picketing only where the methods and objectives are otherwise lawful. The bill expressly provides that the labor dispute must not be in violation of any existing collective bargaining agreement. Thus the bill will not protect violent picketing, since that is prohibited by state and local laws in all parts of the United States, and will

not become operative in the case of "wildcat" strikes in violation of a no-strike clause in an existing collective bargaining agreement.

Express provision is made in H.R. 5900 for construction projects which affect the national defense. When the site is located on a military facility or installation, prior written notice of intent to strike must be given ten days in advance to the Federal Mediation and Conciliation Service, to state or territorial mediators, to the employers on the site, to the military agency involved, and to the union's international or national affiliate.

There is a clear precedent for the provisions of the proposed bill in the Landrum-Griffin Act of 1959. That Act makes the secondary boycott prohibition inapplicable to "persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the apparel and clothing industry." This amendment reflects the recognition by Congress that employers who are integral parts of a production process of enterprise should not be regarded as "neutral" parties within the meaning of the Act. The proposed bill would apply the same kind of treatment to joint enterprise in the construction industry that has been afforded to the garment trade.

In conclusion, it is submitted that the proposed legislation

will protect the economic rights of construction labor, without harming the rights of neutral employers. The bill would remedy a defect in the National Labor Relations Act created by a Supreme Court decision which has long since been refined and even superseded by later interpretations. The bill would assure equal and non-discriminatory treatment for construction and non-construction unions alike. It would not lessen the current statutory protection of true neutral employees in any way, nor would it spread labor disputes beyond the immediate parties.

The bill has safeguards to prevent the use of strikes for racial or religious discrimination, and takes cognizance of the requirement of national security. There is ample precedent for this bill, both in the Taft-Hartley Act itself and in numerous decisions construing it. Finally, there is a long history of support for legislation previously introduced for this purpose.

Thank you.

Mr. Thompson. Thank you very much, Mr. Georgine. I just have a few questions after telling you how splendid a statement you have made.

Do you agree with Secretary Dunlop that the reservations of former Secretary Shultz has been largely taken care of in the matter of racial discrimination which was parenthetically the cause for the bill not getting to the floor in one Congress?

Mr. Georgine. Yes, I do, Mr. Chairman.

Mr. Thompson. Am I correct in my understanding that in recent years the building trades have made considerable efforts toward the employment of black journeymen and apprentices?

Mr. Georgine. There isn't an industry that can equal the building trades union's record for bringing in minority apprentices. We have the highest record of any industry in this country. We have 19.3 percent, I think, of our apprentices who are black or minorities.

Mr. Ashbrook. What about women?

Mr. Ford. There is one on television who comes around and fixes the sink. Is she one of your members?

Mr. Georgine. I am not really sure.

Mr. Ford. She comes in with a wrench and drops this magic potion in there.

Mr. Thompson. What does she have a wrench for?

Mr. Ford. I don't know, whatever a male plumber uses a wrench for.

Mr. Thompson. I might say that in New Jersey, and in my district in particular, that your statement with respect to minority apprentices and the employment of mechanics has been very good, but unfortunately the trades are so depressed that a number of the trades have been unable to take on any apprentices in the last two years and the immediate prospect is that they will just have to do with the handful that we have now because of the lack of work.

Do you think that Secretary Shultz' reservations about independent unions have been taken care of by H.R. 5900?

Mr. Georgine. Yes, I think so. I think they are taken care of. I think they were reservations that were unfounded in the first place.

Mr. Thompson. Incidentally, Mr. Georgine, in discussing H.R. 5900, I would like the record to show that it was only through a communication failure on my part that Mr. Biaggi's name is not on H.R. 5900. He will have an identical bill. I would like you to know and the other gentlemen to know that he had communicated with me his desire to be on it, and the time was such that I could not locate Mr. Biaggi who was in a subcommittee meeting, otherwise he would have signed and been on H.R. 5900.

There are a number of bills that are identical. Mr. Ford is the author of one bill. We now have in excess of 60, and the number is rising. We have not gotten Mr. Ashbrook on it, but we haven't given up on him.

Mr. Georgine, it might be informative for the record if you could tell us something about the construction industry. Why, for instance, are prime and subcontractors interrelated allies, in your judgment?

Mr. Georgine. Well, in order to build a building, you have to look at the whole building as a completed unit and it takes many different crafts to do the work that is required to

build that building. All those crafts are interrelated. One craft may precede another or come back during the same time that another is working there and work after that one has gone. Those subtrades, you can see, work for different employers. Those employers have that same relationship to the general contractor.

For years, the general contractor did most of the work on the job himself. It is only a development that has taken place in the past fifteen or twenty years where so much of the work is subcontracted out, but every employer on that particular job is related to the finished and completed job.

Mr. Thompson. In other words, they have a common objective, which is the construction of whatever they are building and there is this interrelationship between the various trades which makes them all really an equal part and an indispensable part of the process.

Mr. Georgine. That is exactly right.

Mr. Thompson. My experience, when I was many years younger, was with both building trades and industrial unions, because at one point I was an apprentice concrete worker. When they got to the seventh floor of the building, just putting the steel up, my apprenticeship ended because I had to look down from the steel. But I learned just as an apprentice that the rods had to be put in before the concrete was poured. The pipes had to be put in and the heating and venilation system had to be put

in before the pouring of the concrete, and therefore it was all coordinated. But you might end up with a building almost as bad as this building.

Subsequently I secured employment at 25 cents an hour at a bench at General Motors. Mr. William D. Ford understands that industry very well.

Mr. Ford. That is the Chairman's field. I would like to say that I only recently had the chance to move over here with you old timers, so I am still awed by the building, except that one thing really fascinates me, Mr. Chairman, and I feel when I walk through the parking lot downstairs and see all of the foreign cars purchased with the taxpayers money.

Mr. Thompson. Right.

Mr. Ford. I am relieved that when my constituents visit me, the unemployed auto workers, they come through the front door and don't see our parking lot.

Mr. Thompson. Where do you hide a Datsun? Well, anyway.

Mr. Ford. We don't usually use words like that in mixed company, Mr. Chairman.

Mr. Thompson. When I worked in the auto plant, I was a bench hand. Subsequently I became a machine operator in what they call a "Eutomatic" machine. After the top of a garnish molding of an automobile window and the bottom were welded together, sanding the weld so that one would never know it had been made in two parts. Of course, one could drive an

automobile without a garnish molding on the inside of the automobile window, but it was a necessary part and a totally different part, handles to open and close the door were made. Those were all really separate trades in that particular plant, which is not unique at all in the industry.

There were machinists who had their own unions. There were sheet metal workers who had their own union. There were Teamsters who drove the trucks, and there were other constituent unions, all a part of the integrated process of the manufacturing of automobile bodies. When one part was not functioning, the other part couldn't function.

Finally, we got recognition in that plant and there was an election, and as a result of which my hourly wage went from 25 to 35 cents. The machinists had a dispute. Those of us who were auto workers would have honored that line at any one of the gates, and that is essentially what we are talking about, isn't it?

Mr. Georgine. That is exactly right. As a matter of fact, the example you gave about the concrete is a very classic example. You can't have a building without a concrete foundation. For years, general contractors would do all the concrete work on the building. Today, they might have a subcontractor do it who would put up the forms, another one would reinforce with steel. The concrete may be jobbed out, so you have three or four different contractors doing what normally used to be

done by one of them. But you get the same end product. So to say that they are not interrelated is not dealing with reality.

Mr. Thompson. I have two more brief questions. I have taken more time than I should, but will give the other members equal time.

I would like your comments on Secretary Dunlop's proposal of a ten-day cooling off period and the requirement that the local union receive the approval of the international union before taking any action.

Mr. Georgine. Well, Mr. Chairman, let me say that I guess it is an interesting proposal. It is one that Secretary Shultz made at the time that he testified. I really would like to see what kind of language he is talking about, but I can see no reason why that kind of a condition should be imposed upon contract workers when it is not imposed upon any other kind of workers, and the whole purpose of this bill, as I view it, is to make up for an inequity that existed, to treat construction workers equally under the Act. That seems to be just an imposition of one more qualification that construction work would have to have, and I see no point in that.

Mr. Thompson. It would seem to me to follow logically from Professor Dunlop's testimony this morning with the very heavy emphasis and references made to Secretary Shultz that if indeed he would have required the locals to get permission of the internationals before they could take action, it would

follow that the employer, if he were a member of any association, as Mr. Ford set forth in the colloquy with the Secretary this morning, he could also belong, if he were in the air-conditioning and sheet metal business, to an organization known as SMACCA, Sheet Metal and Air-Conditioning Contractors Association.

If I were an employer, it wouldn't seem acceptable to me to get the permission of a national organization to which I belonged to take what I consider to be necessary action on the job, one on which I was the employer. But if one group were to do it, it would seem logical that we should declare the other to do it.

Mr. Georgine. I think that would only be fair. I think this will be evident before the hearings are over, the number of contractors that will probably write in in favor of the bill. But I think if it were imposed upon the workers, it should be imposed upon the contractors.

Mr. Thompson. When the opportunity comes for the Associated General Contractors to be here, and they are to be before us next Tuesday, represented by Mr. James D. McClary, I intend to ask him whether he thinks that such a section should be applicable to the constituent members of his organization. With that, I might have an opportunity to get back.

I would like to ask just one more question and then I will finish. What about the suggestion of Dr. Dunlop that a 30-day

limitation be placed on the duration of the right to picket?

Mr. Georgine. Well, again, you are talking about another qualification. There is no limit on the number of days that you can picket on an area standards picket. I don't see why there is a limit necessary for this kind of picket, but there is a thirty-day limit for an organizational picket. I think that is unnecessary.

Mr. Thompson. Thank you very much.

Mr. Ashbrook?

Mr. Ashbrook. Thank you very much, Mr. Chairman.

A couple of the answers you gave seemed to hit a very responsive chord to me. Would it be fair to say what you really want is the right to shut down an entire construction site where there is a disagreement in the same way that the industrial unions are able to shut down an entire manufacturing site? You said yes when Mr. Thompson was giving his example of one union, the Machinists, respecting the strike of another union at their plant. I guess basically what they want is the ability to shut down a whole site.

Mr. Georgine. I think it is more the ability to picket, the ability to say that a certain condition exists on that job that you want everyone on that job to know about. Just because we picket a job, it doesn't necessarily mean that the whole job is shut down.

Mr. Ashbrook. What you are saying is one percent of the

time?

Mr. Georgine. There is time when we put up pickets.

Mr. Ashbrook. It would be very small though. If it were not shut down, you would think you are really failing in your picketing, wouldn't you?

Mr. Georgine. I think I would think it is ineffective.

Mr. Ashbrook. I think you have also indicated that you feel it is a basic right of a union tradesman to not be compelled to work along side a non-union tradesman. Would that go the other way, do you think, in that situation, if we have 5900, it is the right of the non-union tradesman to insist that the whole site be non-union, that he not be required to work with the union tradesman, or is it a one-way street?

Mr. Georgine. I think the law would be applicable to all.

Mr. Ashbrook. It could cut both ways is what you are saying?

Mr. Sherman. It works that way. Generally in the past it has worked that way. There are certain areas in the United States where it is all non-union work and they see to it by various and sundry means, some of them not very pleasant, that there is no objection from the law if you have a non-union job throughout. The complaint here is an effort to tear down union standards by putting non-union people in with the aid and assistance of the peculiarities of the law.

Mr. Ashbrook. What do you mean by "tear down union

standards"? Are you talking about wages or paying less?

Mr. Sherman. The National Labor Relations Board has allowed a certain type of picketing, which is area standards picketing. You picket for the purpose of maintaining a wage rate in the area. That is what I was referring to.

Mr. Ashbrook. Back to Mr. Georgine. I am very intrigued by your statements on page 9 and your colloquy with Mr. Thompson. You say all subcontractors are interrelated allies of the primary contractor, rather than independent neutrals. Now, I just don't see that as anything more than a situation to say that, are you saying that each is an ally with each other or each is an ally with the prime? Which way is it? Or is it both ways?

Mr. Georgine. I think it is both ways, but I think a good explanation of that appears in the conference report in 1967.

Mr. Thompson. If I recall that, it was kind of a syllogism. First comes on the labor and then comes on so and so.

Mr. Ashbrook. You have a contractor and you might have five people who want to be the air-conditioning contractor. You end up with one. You might have three or four subcontractors who want to be the electrical contractor. You end up with one. They compete with each other. I assume the prime contractor picks the sub on a variety of reasons such as ability or reputation. Maybe they do things better. Maybe it is less expensive. It adds up in the whole process. Actually, I don't know if you can say it is interrelated allies.

Mr. Sherman. President Eisenhower said, "The prohibitions in the Act against secondary boycotts are designed to protect the innocent third parties from being injured in labor disputes which are not their concern. The true secondary boycott is indefensible and must not be permitted. The Act mustnot, however, prohibit legitimate concerns of activities against other innocent parties. I recommend that the Act be clarified by making it explicit that concerted action against an employer or a construction project who, together with other employers, is engaged in work on the site of the project, will not be treated as a secondary boycott."

Mr. Ashbrook. Let's not pull this Eisenhower thing on us. I would say on a scale of 100 they disagreed with him 94 percent of the time. So let the record show that Mr. Eisenhower was for it but let the record also show that the people for the most part excoriated him.

Mr. Thompson. If the gentleman will yield, I think the record will also show that at least to my dismay at this time, that the building trades support Mr. Eisenhower.

Mr. Georgine. I was going to make that point, that that comment was unnecessarily true for the building trades and I think it is the building trades that are affected by this legislation. I think that is probably very appropriate that we quote President Eisenhower.

Mr. Ashbrook. I think it is very appropriate, just as I

think it is appropriate that the overall record reflects a few other things. But I guess I just don't see how you can call someone who is working for someone else or under the direction of someone else and gets his checks from someone else, in effect, an ally or an employee of the prime contractor. I think they are independent neutrals. I think there is some reason to continue to treat them as such. How can an electrical contractor be an ally of a plumbing subcontractor? They work on the same building, but structurally they are not the same.

Mr. Georgine. Can you build a building without either one of them? Do you know of a building that goes up in the United States today that has either no plumbing or no electricity in it?

Mr. Ashbrook. Sure, you have contractors, but how is the contractor who is in plumbing who deals with plumbing who is trying to make a profit on his job an ally of the electrical worker who may not make a profit on his job? He may have a totally different boss. I just don't see in actual fact how they can be interrelated allies. Surely they work on the same contract. They are held to the state standards in many areas. But they work for someone different and they may not have anything in common really.

Mr. Georgine. There are many times that one piece of equipment may be handled by two or three crafts working for different employers, for instance in plumbing and heating,

where you might have an electrical boiler or something. Now, the effect of one trade upon the other certainly has a relationship upon that employer, what he does or doesn't make on that job, how he schedules the job, how he gets his material in. All of these things are interrelated. It is just not realistic that you can say that all of these subcontractors on the job are not related to one another and that those two subcontractors are not related to a general contractor.

Mr. Ashbrook. I will give you a specific example. The electrical contractor lost money on a job and the plumbing contractor made money. To what extent are they interrelated? They don't exchange the profits. One doesn't bail out the other. You certainly have situations where one contractor loses and the next contractor makes out. From top to bottom it is a totally different situation.

Yes, you have the same set of plans and the same general responsibility to an architect, but structurally as a business, as to the immediate manager, as to who their boss is, I would say that in every way they are independent.

Mr. Georgine. They are independent from a contractual point of view and a contractual point of view only.

Mr. Ashbrook. A contractual point of view in construction of a building is probably one of the main parts of the overall project and I would say it is something you are not treating as very important, where actually it is the whole essence of

the contract, isn't it?

Mr. Sherman. As far as the interrelationship is concerned there are cases such as General Electric, where the issue of whether you can picket a gate has been decided on the basis of the interrelations of the work, even though the contractors are different people and that has been upheld as primary picketing.

Mr. Ashbrook. On that one situation, the basic difference between the Markwell case and the G.E. case is the fact that in the latter case only one employer was located at the situs while in the Markwell case more than three independent employers were doing business at the same location. It wouldn't seem to be the same situation.

Mr. Sherman. The Markwell case came out two-to-one with Judge Wisdom rendering the dissenting opinion. There is obviously disagreement on that point. We go with Judge Wisdom.

Mr. Ashbrook. You go with the dissent, but the law is what the majority says.

Mr. Sherman. That is the reason why we are here.

Mr. Ashbrook. I don't like the majority of the Supreme Court decision a lot of times, but I quote the dissent when I like it, and I look over the majority decision, but the majority decision does not hold what Judge Wisdom held.

Mr. Sherman. We disagree with the majority decision.

Mr. Thompson. If the gentleman will yield, the gate in

the General Electric case was a gate specifically set aside or reserved for the independent contractors. That is a somewhat unique situation. I think that Mr. Georgine would agree that notwithstanding whether the prime contractor does all or most of the work, if he has five subcontracts, the effort is integrated in the sense that there is a construction supervisor overlooking the joint efforts of all the trades and crafts, is there not?

Mr. Georgine. There certainly is.

Mr. Thompson. That was so on any activity that I worked on. One could hardly put the rough plumbing in without having the rough electrical work being done at the same time. They are interrelated, if only in the sense with respect to the electrical system where there might be separate grounding but where one might have to rely on the plumbing to ground the electrical appliances to the plumbing.

Mr. Ashbrook. I agree with the Chairman and I think it is a very difficult and complicated area and I would have to say that my gut feeling is very simple. If I thought that H.R. 5900 would improve the quality of workmanship, if it would improve safety, if it would give the taxpayer a better break and make sure we have peace in the construction industry, I would probably favor it.

But I can't get away from the basic feeling that the heart of it, which is to give an additional power to the union trades

push aside the non-union trades on a contract site, I just can't arrive at any other conclusion. If I did, I certainly would see a basic reason for supporting H.R. 5900.

Mr. Thompson. If the gentleman would yield, I respectfully disagree in this way, that the objective, as I see it, with due respect to your version of it, isn't to give the construction trades an unequal opportunity, rather it is to give them an equal opportunity consonant with the federal government labor policies set down more than forty years ago. They are now isolated by the Denver Building Trades case, and as a result of that isolation do not enjoy the same rights and privileges as are enjoyed by the industrial unions.

Mr. Ashbrook. I guess I just don't think the suffering has been that great. Maybe it has been, but in every statistic I see, and we have an economic slow-down, but all you have to do is look at the figures I cited this morning. They run anywhere from 50 percent ahead to twice what the average manufacturing contract is.

Mr. Thompson. I think the gentleman is correct in the wage disparity, but in the course of that, one must consider the seasonal nature in many parts of the United States in the construction trades industry.

Mr. Ashbrook. I don't think there is anything wrong with that. I have a lot of questions but we have a couple other members.

Mr. Thompson. Let me say that I appreciate witnesses like those we have today. Most of our witnesses, when you ask them a question, you don't get an answer. At least I can say, Mr. Georgine, you have a point of view and you know how to express it.

Mr. Georgine. Well, I would like to point out though that you said you didn't see where we have gotten hurt by it. The fact of the matter is we have been hurt, the open shop or non-union element has grown by leaps and bounds over the last few years because we don't have the ability to peacefully let people know what is going on in a particular job. We don't have the opportunity to peacefully appeal to your people.

Mr. Ashbrook. In the city of Newark, Ohio, there are sites that are all union and sites that are non-union and the sites that are non-union, you find members of the building trades peacefully in front of those sites presenting the point of view that this was built by non-union craftsmen. They do it peacefully and properly. That is their site. It doesn't square with the realities of the situation.

Mr. Georgine. But they can't do it where there is a non-union contractor on a union job. They can't picket that construction site under current law.

Mr. Ashbrook. If there is a basic grievance, and you cite the Moore Dry Dock decision, but if you want to talk about they want to picket them because they are non-union, maybe that is

the case, but there is a legitimate grievance as to where they can picket.

Mr. Sherman. The Moore Dry Dock rules were found to be ineffective as far as picketing is concerned and the message from President Eisenhower was sent out after Moore Dry Dock was decided.

Mr. Ashbrook. I think that was an excellent statement you made a few minutes ago. You can picket for area standards, as I understand it.

Mr. Sherman. They are permitted at the gates where the picketing is in effect. What is happening now is a much more complicated thing than was the case before. What is not a secondary boycott becomes a secondary boycott to wit by setting up a gate through which all the union people will pass or let the non-union people go to the other gates. You are allowed to picket where the labor dispute is. That is where the non-union personnel are and the picketing is just not effective.

Mr. Thompson. Am I not correct that under Markwell, the only gate that could be picketed by the union would be that reserved for the non-union men?

Mr. Georgine. That is right, so they read your sign and walk right by.

Mr. Ashbrook. I have great sympathy with you in the area of picketing. I think you are held to an extremely rigid and unrealistic regulation there. I think you have almost a Catch

22 situation if you picket for a legal purpose but you get an unintended effect and they hold it against you.

Mr. Thompson. Mr. Ford.

Mr. Ford. I would just like to observe with regard to the last two things that Mr. Ashbrook was on, it seems reasonable when you are talking about the frustrations that anyone feels when they are being held unfairly at a disadvantage, but you ought to try to eliminate that, and I don't think it takes a great deal of imagination to think about the consequences of that frustration as an alternative or as the frustrated people think of alternatives to peaceful picketing. I think it would change a lot of attitudes if it was clearly understood that the right to peaceful picketing existed in a practical way so that it would be effective. Sometimes we are, and albeit wrongfully, turning to other alternatives to make their point and to get their message across and that is what we are trying to do here.

My understanding from the very beginning has been that the national policy that is in the National Labor Relations Act is to find a peaceful and rational way to establish labor policy and collective bargaining processes in this country. That is not weighted in anyone's direction and you will find requirements where the form of the statute does weight the rules against somebody in a given set of circumstances, and when we find that they are inconsistent with the original purpose of

the Act, we try to equalize it out again. I think that is the answer to what is bothering John, and I also notice at the bottom of page 13 with regard to this question about interrelation, you cite the language of the Landrum-Griffin Act which says "persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the apparel and clothing industry."

Then you go on to say that "this amendment reflects the recognition by Congress that employers who are integral parts of a production process...should not be regarded as 'neutral' parties within the meaning of the Act." Isn't that what we are talking about here when you are talking about the interrelationship of the several subcontractors in the construction of the building?

Mr. Georgine. Absolutely.

Mr. Ford. It is just impractical to think of them as not being interrelated people. If the electrician is not in there doing his job, the drywall man can't come in behind him or the other way around. But these things have to be done in sequence so what happens to one very definitely affects the other. It might incidentally affect the profit, too, but that is not what is really involved.

Mr. Ford. I am concerned with the ten-day notice and what

it is that the Secretary says he wants to have happen. Thinking back to Landrum-Griffin, in my long acquaintance with Mr. Griffin, he has always maintained that his strongest motive and principal reason for that legislation was to protect the integrity of the local union member and his ability to remain in control of his own destiny and this, so far as I can recall offhand, is the only place where we have by federal statute really gotten into dictating the relationship between local unions, local union officers and members of the national or international union which they might be a part of.

Every one of those intrusions into that international functioning was justified on the ground that it was more the purpose of moving control right down to the individual members at their local union level where they were likely to exercise the most direct control over the democratic processes. Now, it would seem that the administration is suggesting a second legislative intrusion into the international structure of the unions in exactly the opposite direction by in fact saying that without regard to what the tradition or the desire of the membership might be with respect to the powers they are willing to cede to the national or international, and those powers they want to hold back for themselves, that we would dictate to them that no matter what their wishes, they would have to clear that with somebody in Washington.

I don't have any objection if that is what the men want

and the union adopts it as the method of operation. I do have objection to our statutorally dictating the relationship between a local, if that is what the term will be used for, or what other units you would call it, even if it is a state council or a national. It seems that that would be taking us down the road of creating a kind of monolithic labor organization that people who dislike organized labor as an institution most frequently and erroneously view it to be.

I can't frankly understand how you can consider not opposing, as a matter of principle, whether it is two days, ten days, 24 hours or five minutes, a requirement that by statute your local union members are going to have to come to Washington to get work clearances. If you want to do it within the union, it is fine, but an agreement of your own. Am I off base here that I suggest to you that it is inconsistent to have the federal government control what that relationship would be?

Mr. Sherman. Of course, the labor movement is a very complex institution. You come to this point every year when you say, depending upon what their procedures are -- I could tell you about the procedures in one international union, that is, that if there is a strike of a general nature, that is the difference between the picketing situation and this language. If the strike is going to be of a general nature, they must get the approval of the international president before they strike. A case came in involving the Baltimore local which

refused to comply with the contract and there was some very strong action taken against them which finally was upheld by the court. I think that it should be taken into account in this. Of course, there might be a question about the wisdom or lack of wisdom of it, but I think it is the more responsible exercise of union power.

There is an assumption that this may, if you do something on the picketing here that all jobs will shut down. That is not realistic and the fact that the power is available doesn't necessarily mean that it is going to be exercised. So there are little variations on a theme.

But I think at the time this IBW case got into litigation, we made a check on them but the CIO union also had this procedure, so I am just mentioning that as a fact.

Mr. Ford. If we could get away from concentration on the building trades for just a moment --

Mr. Thompson. Would the gentleman yield at this point?

Having at one time or another been a member of a trades union, an industrial union, I would say there is a distinction in most cases that in the industrial union before a local goes on strike, if they want to receive strike benefits they must have the approval of the international union, otherwise, of course, it would be entirely possible that in an ultra vires action could fine the national strike benefit fund but that isn't so in the trade unions, is it?

Mr. Sherman. The statement that was made include some cases where there were monetary penalties in the sense of not making available trade benefits and in other cases it was a direct revision which required the approval -- and if it went out without approval, things might happen, including revocations of the charter. I mention that just to give you a little factual background.

Mr. Ford. If what we are trying to do is minimize the ways in which collective bargaining and all the processes connected thereto with respect to building trades are different from the way everybody else is treated, then we are going to have to recognize the individuality of all the various structures in the labor movement, operate according to their own tradition and so on, then we ought to recognize that with the building trades as well. I can't find the justification for reaching inside a part of the labor movement and telling them what the relationship between the local union and the international is without doing it to all of them.

You see, I don't find a broad public policy that justifies making this kind of an exception for the building trades.

Mr. Sherman. I share your feeling on it, but I just thought I would mention this background so it would not be assumed that the locals have the power to move out without the approval of the international.

Mr. Ford. I don't know whether I was talking to Mr. Dunlop

at the point where I got this impression this morning, but one of those views coming through to me sounded as if he was saying that he expected more reasonable conduct affecting labor-management relationships in the building trades in the future if you could move the fund to the national leadership of both the builders and their employees and get it away from the bothersome differences that occur out there at the local level. What frightens me is that is the kind of fiscal restraint underlying this ten-day thing in submission to Washington, because while it might be argued that in a different set of circumstances you could get "more responsible" and quicker action if you use the leverage of the national headquarters for both the employers and the employees.

I don't view that as the desire that the policy should be dictated out to be followed in all instances, because where is the democracy that is supposed to be left out there?

Mr. Sherman. I think you are right and I think that is an important policy problem. I think, if I might say, that your interpretation of Professor Dunlop's remarks may not be very far from the mark.

Mr. Ford. One more thing with regard to the thirty-day limitation on picketing. Given the fact that most contractors are protected from the only penalties that they are really working under, and that is meeting their completion dates and their schedules, by strike provisions that would probably be

applicable if there was a work stoppage resulting from the picketing. But can we realistically expect that the thirty-day provision would delay serious discussion for thirty days and then go back to the rules of the old ball game?

Mr. Georgine. I think any time you impose limits on that thing you do have that problem, if somebody waits out the time period and then accomplishes what they attempted to accomplish in the first place. I think it is bad to have a time limit.

Mr. Ford. If you were negotiating in good faith and you were in the third week, wouldn't it be hard to convince your employers, whether it was accurate or not, that they weren't holding out because they knew that time was running out? Doesn't that set up a real problem to deal with the thrust of the members and whether the negotiations are proceeding as they would have them proceed?

Mr. Georgine. I think you are right. I couldn't have said that better myself.

Mr. Ford. Thank you very much.

Mr. Thompson. Mr. Biaggi.

Mr. Biaggi. I would like to welcome Mr. Georgine, and the Chairman expressed my views in connection with the bill. Some very interesting questions have been raised. It appears to me that the crux of this problem commences with the history of general contractors. If we can deal with the history of general contractors, which discloses that once a building was

built in yesteryear, only one man built it. He employed different people. He employed carpenters, electricians, plumbers, cement masons, in fact, he was the prime employer of every employee.

That being the case, and had that practice continued, you would not have had this problem today, is that right?

Mr. Georgine. That is right.

Mr. Biaggi. So now we are talking in terms of a sophisticated development of business. The subcontractor comes into being, and by virtue of that, we find the Supreme Court making decisions that confound me, because the fact of the matter, the realistic situation, is that they are not separate individuals. They might be separate individuals, but they are indeed part of the same unit.

Anyone who is familiar with building trades knows that every trade is interrelated with one another. Their scheduling is dependent on one another. Their ability to make money or lose money depends on their own contracts, processes, and their own estimations and their own ability to deal with the men effectively and to get the most from them. So I think that gives answer to my colleague, Mr. Ashbrook, who raised that straw man in the colloquy.

But if you deal with the history, and I think that is what we should deal with, that as a matter of practical application you are dealing with one side, a contractor who dominates the

entire construction, who supervises the entire construction, who has the ultimate liability and who in fact makes or loses money in the process. So that overall we are asking more and I think that is a point that must be emphasized in this discussion.

But having accepted that premise, I think everything else falls in place. The building trade is part of the total organized labor movement, and it is treated in a fashion which is separate and different from the rest of the labor movement. The establishment of two standards is repugnant to Americans in every walk of life and there is no reason why it shouldn't be offensive to you as relative to the building trades, and hence this bill, and that is one of the reasons that motivate me.

You have a right to, despite all of these sophisticated developments and nuances that attend this problem, you have a right to relief and equal treatment under the law as your fellow union leaders and participants do have.

Now, what I would like to know, and I listened to Secretary Dunlop, or, ast you say, Professor Dunlop, who articulated this morning that he is in support of the bill and he makes some suggestions. Apparently this bill has been supported historically by all our preceding Presidents, and yet it confounds me that it fails if enacted.

He makes some suggestions and I think you might, as a

labor leader, address yourself to some of those suggestions. It would appear to me that he makes those suggestions in good faith but until I am persuaded otherwise, I will proceed on that premise.

I am sure my colleagues on the committee will take the same attitude, but I think that it would help the subcommittee substantially if you would address yourself to those suggestions and submit for the committee's edification your reactions to them for the record.

My colleague, Mr. Ford, raises the point that the ten-day delay or the thirty-day delay is done with the purpose of avoiding an irrational action. I think Dr. Dunlop is thinking in terms of a national action on the part of some locals which I think we will have to concede does happen on occasion, but, again, let's not talk in terms of the irrational few, but talk in terms of the substantial responsible majority.

It is a suggestion. I think a response from you and your organization, the people you represent, would be in order. If you are prepared to make the response now, fine, otherwise it could be submitted for the record.

Mr. Chairman, I think it would help our committee immeasurably.

Mr. Thompson. Whichever you would like to do. I think that some supplemental memoranda might be useful. I was very pleased with Secretary Dunlop's testimony, although many parts

of it I didn't agree with. I consider him to be an interrelated ally.

Mr. Georgine. We would be more than happy to submit additional memoranda or testimony regarding Dr. Dunlop's suggestions. I think that I have attempted to give some of my feelings about him here this afternoon. I think that Dr. Dunlop does make those suggestions in good faith. I think that as a result of the experience that we picked up in the Construction Industry Stabilization Committee, that history would give some merit to some of the suggestions that he made, and I certainly would be happy to address myself to that in the memo.

Mr. Biaggi. Thank you.

Mr. Thompson. Mr. Peyser.

Mr. Peyser. Thank you, Mr. Chairman.

I also want to join my colleagues in welcoming you and your colleagues to testify this afternoon. Obviously, I am in agreement with the legislation so I have very little to add in direct questioning of that legislation or any of your testimony. I think one of the points that you have brought out here on page 12 deals with the number of times this type of legislation has been in and the fact that it has only come out of committee once before.

I am confident, under the leadership of our Chairman here today, that once we get this before the full committee, that this year I believe we will be able to get this bill out, and

I think that we have every reason to believe that we are going to have a positive action on the floor. However, I think one of the problems that traditionally has come up deals with the building trades and a great deal of the unfair and adverse publicity that is given on a number of occasions to the building trades, and unfortunately this reaches many of the members of the House and the Senate and so sometimes action on this type of legislation gets colored by something that is both unfair and untrue and yet is well publicized.

I am sure you are aware of the series of articles a year or a year and a half ago in the Reader's Digest on the building trades. I had many of my colleagues in the House speak of this because they knew I had been very supportive of efforts on behalf of this type of legislation before.

I don't know how we do this, certainly I have personally refuted and have written to the Reader's Digest on the series that they did a year ago, taking them to task for the both one-sided and unfair representation they gave to the building trades. But it seems to me that every effort that can be made from your side of the fence in trying to give the image as it actually exists -- not the image but the facts as they actually exist in the building trades, both as to your operation, to the way that business is conducted in the trades, somehow would help the members of the Congress who have taken a poor point of view on this issue because of the publicity given it.

It has been my experience, and I must say that when I first came to the Congress a little over five years ago, I had no relationship with the building trades or any labor organization whatsoever, and I have learned through lengthy association and I can say particularly with the building trades, that the calibre of men that are involved at all levels and the workers, the people that are actually out there doing the job, they are concerned and very much involved in everything in the country, not just in their own jobs and in the way they conduct their own businesses.

One of my concerns is this feeling of a certain negativeness that exists against the building trades, if you will. I am not saying that this is a majority, but I am saying factually that it is there.

I guess what I am calling on you for is I know that people like myself and our Chairman and many of the other members of the committee are prepared to fight this battle of the building trades in operating as any other business operates or any other respectable organization, and showing the image of the workers in the building trades who represent much of the backbone of this country as they really are would be a great help in the passage of this type of legislation.

I think we can win the fight and we are delighted to have any help that you can give us in this effort. Would either of you care to comment on this?

Mr. Georgine. Thank you, Mr. Peyser. Let me say that it is true that if there is publicity about the building trades, it is usually bad publicity, it is negative. We are in the business of representing men who work in the building and construction industry. We are not in the public relations business. That is a problem. All the good things that are done in the construction industry get very little publicity, things like the tachylyte industry that in more than twenty-five years there is yet to be the first strike; the Alaska pipeline agreement, where we got all crafts together in the interest of the United States government and the country to get the job done and done quickly with the least amount of trouble.

Those kinds of things that are done every day get very little publicity. There are a few frustrated men who see the work that they have been trying to do is now being done by others who are many times not even residents of the area. They have no legal way to show their redress. I guess they are frustrated and emotional and they get carried away and some things happen on occasion that get publicized. That is the thing that gets thrown all over the papers and everything.

If it does happen, it is a very small fraction of the every day occurrences that go on in the building and construction trades industry. But again I say we are not in the PR business and it seems like the contractor wants to give out inflammatory statements all the time to make it look like we

are continually doing that type of thing. But certainly I think there is much more good on the scales as far as what the building and construction trades do than there is bad.

Mr. Peyser. I am in agreement with that. I think some of the things that you have mentioned now might prove to be helpful. I would be delighted to be the recipient of some data on the Alaska pipeline and everything like this. Any information like this would be welcomed by me because I think this becomes part of the battle on this legislation. It shouldn't be, but I think it becomes part of the battle and we would like to make every effort to help in this area. I thank you gentlemen and I will yield back my time.

Mr. Thompson. Do you have an additional comment, Mr. Biaggi?

Mr. Biaggi. The activity of the construction trades has become more critical in light of the depressed labor market, but many people do not know -- and I am saying this for the record -- that the general contractors bid in many areas for employment, for jobs, and I found them to do it at the city, state, and federal government level, official agencies of the different levels.

They subcontract to subcontractors who in fact use substandard wages and they employ on the most part illegal aliens who are virtually held captive. It is a form of enslavement that the union has shed the yoke from by virtue of its

existence. I think that particular point should be impressed and publicized. In the New York area in the building trades industry, Mr. Peyser and I have been working together to focus attention on this and we found illegal aliens working at West Point, Hamilton, the Post Office, and the schools.

It is a disgraceful situation to see that our government -- city, state and federal -- tolerate this or do it with the knowledge of and in many instances in violation of the law, because there is no law which prohibits it.

Mr. Thompson. I am pleased the gentleman made that statement. We have cases in the New York-New Jersey area where the aliens are coming in. They have a green card and the right to be a part of the work force.

I might say at this point we do have this quorum which Mr. Peyser referred to as being a short one. It will be short only if a hundred members show up.

I would like to thank you, Mr. Georgine. I guess Mr. Peyser has left, but I was going to say that his confidence in me and my colleagues isn't misplaced.

I guess obviously he has had medical attention recently, because where else does one see the Reader's Digest?

Mr. Ford. In answer to your last question, you can see them quite regularly before the Post Office Committee actively lobbying for the special reduced second class rate.

Mr. Thompson. They deserve that, being a second rate

publication.

Mr. Ashbrook. One last question, Mr. Georgine. I think the whole testimony today has been a talk of getting some equality in the construction trades and industrial unions. That is one side of it. The other side is you also have 8(e) and 8(f). Am I to understand that you want equality with the manufacturing industry, that if 5900 passes, you think 8(e) and 8(f) ought to be repealed because the manufacturing unions don't have those? If we are going to get equality, we pass 5900 and attach an amendment to cut out 8(e) and 8(f)?

Mr. Sherman. I think that the Chairman is fully aware of the history of these sections. Sections 8(e) and 8(f) were written to meet the peculiarities of the industry. I don't think that the effort to extend the recognition of the peculiarities of the industry is intended to mean we want to cut off any of them. 8(e) and 8(f) were offered as compromises and it was a meeting with them and Senator Kennedy at which the decision was made to go for 8(e) and 8(f), so there would be a law passed.

Mr. Ashbrook. But you do admit the legislative history is, in the Denver Building Trades case, it was explicit that that was in lieu of situs picketing.

Mr. Sherman. Then Senator Kennedy made a statement on the Congressional Record in which the various leaders of the House and the Senate joined in, Mr. Johnson, Mr. Halleck, Mr. Rayburn--

Mr. Thompson. Mr. Kerns of Pennsylvania, Senator Goldwater, Senator Dirksen, all of the conferees in 1959.

Mr. Sherman. They promised us we would get the issue up to a vote on the floor.

Mr. Thompson. Reference is made in a memo and distributed to the members of this committee on the subject and I made reference this morning to a perfectly analogous situation related to the garment trades.

Mr. Ashbrook. 8(e) and (f) grew out of that so-called agreement at that time.

Mr. Sherman. The agreement had different parts to it. 8(e) and 8(f) was one part. There were so many procedures and devices to keep it from going to the floor for the vote.

Mr. Georgine. If I might add, Mr. Chairman, we have heard this afternoon and earlier this morning from members of the committee who were astounded by the fact that it has taken so long to get this legislation passed. I am just a new "mickey" on the block and it astounds me, too -- to research this, to look back over the legislative history of this, to see that four Presidents have endorsed it, that the whole spectrum goes from the most conservative legislator to the most liberal who have spoken out on behalf of this legislation. Here we are 25 years later and it still has not been passed. I guess we can include a fifth President, the Secretary having endorsed it speaking of course as a member of the incumbent administration,

President Gerald R. Ford, of Michigan.

Mr. Thompson. Are there any more questions?

Mr. Ashbrook. That is the only question I have, and as I have said before, I certainly appreciate Mr. Georgine's testimony. Even if he is a new "mickey" on the block, he is refreshing to hear and he might even convince me if he keeps at it.

Mr. Thompson. You are being this far ahead of the game, I think we will quit now. The subcommittee will recess to meet again on Tuesday, June 10, in Room 2261, to hear from the Associated General Contractors of America, the Chamber of Commerce of the United States, the National Association of Manufacturers, Associated Builders and Contractors, Inc., and the National Association of Minority Contractors, and if time allows, for Mr. I. W. Abel, the President of the United Steel Workers of America.

Thank you.

[Whereupon, the subcommittee recessed at 4:00 o'clock p.m., to reconvene at 10:00 o'clock a.m., on Tuesday, June 10, 1975.]

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