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

1) Bill has considerable merit

2) It was anticipated that both Labor & Mgt management would be agreeable to a solution that would be an answer to a long & bitter controversy.

3) Unfortunately this proposal did not result in joint support but instead resulted in heightened controversy over conflicting views.

In addition, public concern outside the industry reached a pitch of bitterness.

4) In such circumstances a President must take a broad view.

November 19, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: CONGRESSMAN LOU FREY, JR.

SUBJECT: Common Situs Legislation

Mr. President, the State of Florida is crucial to your election, and, therefore, to the future of the Republican Party.

I respectfully request that you thoroughly review the affect that your signature on the Common Situs proposal would have on Florida's depressed construction industry.

The eight major newspapers in Florida have editorially reviewed this legislation; their combined circulation exceeds 1.5 million.

Senator Richard Stone, only with the help of organized labor, won a closely contested primary in 1974. He vehemently opposed this legislation. Senator Chiles, who will campaign for re-election in '76, publicly opposed Common Situs.

We have 1,900,000 registered Republicans in the State of Florida. The are concentrated in 27 of our 67 counties. Ford committee chairmen are currently in these key 27 counties.

If you sign Common Situs into law, you will lose 8 of these chairmen. This would directly affect more than 350,000 Republican voters. You would lose co-chairmen in two additional counties raising Republican voters affected to 485,000.

Two members of the Finance Committee in Florida would resign.

Florida's economy is three times more dependent on the construction industry than is the Nation as a whole. One-third of our unemployed were in construction related jobs. This translates to a loss of 162,000 jobs and a total economic loss to Florida during 1974-75 of $3.5 billion.

This legislation would stimulate a major issue which your primary opponent plans to use prior to March 9th.

In the 15 member Congressional Delegation, only four Democrats voted in favor of Common Situs; all five of your supporters voted against Common Situs.

Mr. President, we have the votes to sustain your veto. We earnestly request your assistance.

Dictated by phone.

JOHN N. MATICH
P. O. BOX 390
COLTON, CALIFORNIA

November 20, 1975

Honorable Gerald R. Ford
President of the United States
The White House
Washington, D. C. 20500

Dear Mr. President:

I respond to your letter of November 10 asking me to join you in your efforts to elect more Republicans to the Congress in 1976.

My brother Martin and I have been Republicans all of our adult lives, and have actively participated in the affairs of the party locally and nationally, not only through substantial financial contributions, but by days and weeks of personal effort. We certainly want to see more Republicans elected to Congress and just as certainly we want you to be our President for as long as you can serve.

Many of your constructive efforts have, as you state, been thwarted by a Congress heavily controlled by the Democrats, and you speak of the "tide of irresponsible legislation generated by that Congress." In all honesty and fairness, Mr. President, I and every person of responsibility in United States industry consider a piece of legislation towards which you are reported to be favorably inclined to be near or at the top of that list.

This legislation (HR 5900 and S 1479), which would remove the anti-trust restraints on the construction unions imposed by the Supreme Court and would legalize secondary boycotts in construction, is thoroughly bad legislation. The fact that it was tied to a sterile, non-effective piece of legislation when it was passed by the Senate yeaterday does nothing whatsoever to mitigate its basic oppressive intent.

I know as well as you that none of us should decide to support or not support a Congressional candidate or a Presidential candidate on how he reacts on one issue, but the enactment of this legislation into law will tell very clearly whether business management in this country is to retain its right to manage or whether it will be given, by legislation, to the leaders of organized labor.

My brother and I and our families will, of course, forward our contributions to the committee, but I want you to know just as honestly and candidly as I can say it that your signature on this legislation will have a marked effect on the support of the business community for the Republican party in 1976. This also was stated just as clearly in David Packard's letter to you of November 11.

When this legislation was being considered in 1959, President Eisenhower initially expressed his support. However, when the damaging nature of the proposal was fully explained to him he said, in a nation-wide telecast on August 6, 1959, "How can anyone justify this kind of pressure against those not involved in the dispute? They are innocent bystanders. This kind of action is designed to make the stores bring pressure on the furniture plant and its employees -- to force those employees into a union they do not want. That is an example of a 'secondary boycott.' I want that sort of thing stopped. So does America." I again request, with all the urgency I possess, that you allow me to meet with you for a few minutes alone to discuss with you the damaging impact on the business community of this oppressive legislation.

Sincerely,

J. N. Matich

J. N. Matich

THE WHITE HOUSE
WASHINGTON

11/22/75

MR. PRESIDENT:

The attached is for your information. It will be handled in a routine manner unless otherwise indicated.

Jim Connor

Show to Dick Cheney

THE WHITE
WASHING

11/22/75

TO: Jim Connor

For Your Information: _____

For Appropriate Handling: _____

Pres F4t

Robert D. Linder

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

November 21, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

On behalf of my family and myself, I wish to thank you for the most cordial manner in which you entertained us at the Oval Office on the occasion of my swearing in as the new Administrator of the General Services Administration (GSA). I look forward to being a part of your Administration. Also, I look forward to meeting the challenges, problems, and opportunities that are now before me.

In the short period of time that I have been involved with GSA, I have identified one problem, which will have significant impact on our agency. I am referring to the implications for GSA operations posed by the "Common Situs" bill, which has just been referred to a conference committee of the Congress.

The bill, in its present form, will have an adverse effect upon our "phase construction" program. The GSA's Public Buildings Service (PBS) is presently utilizing this new management technique in the construction of Federal buildings. The essence of "phase construction" is simple and logical. Rather than wait until the entire facility is designed before beginning construction, work at the site starts as soon as those portions that need to be constructed first are designed. This process of overlapping design and construction continues until the last element of the design is completed and constructed. The principal benefit of the phased construction which utilizes separate construction contracts for various building components is a 25% savings in time and a 20% savings in cost.

This approach to construction requires that GSA have the ability to award a series of separate construction contracts for each of the design packages. All of the requirements of Government contracting

are applicable to each of the separate contracts, including the requirements that contracts be awarded to the lowest responsible responsive bidder; that prevailing wage rates be paid; and that protective bonds be provided.

As of November 4, 1975, GSA has used the separate contracting procedure on 18 projects, resulting in the award of 268 separate construction contracts. We estimate that GSA will have approximately twenty phased construction projects per year for the next several years.

Any legislation that would impede the use of the separate contract process or restrict the mixing of union and non-union contractors on a Federal job site would have a serious impact on our ability to provide Government facilities for the least cost and within the minimum time.

In our opinion, the present "Common Situs" legislation would have such an effect. It is my understanding that a number of Federal agencies use this method of construction.

GSA very much regrets that the Senate did not approve a limited amendment, which would have allowed us to go forward with our program of saving millions of dollars, and while preserving the integrity and basic purpose of the proposed law. I have enclosed a copy of the language GSA proposed in its amendment.

Mr. President, I felt that it was both my duty and responsibility to you, to bring this matter to your immediate attention.

Sincerely yours,

Jack M. Eckerd
Administrator

Enclosure

AMENDMENT

viz: On page 1, line 3, insert "(a)" immediately after "That".

On page 4, insert between lines 23 and 24, the following:

(b) Section 8 of the National Labor Relations Act (29 U.S.C. 151) is amended by adding at the end thereof the following new subsection:

(j) "Nothwithstanding any other provision of this or any other Act, whenever any agency of the Federal Government awards separate contracts for construction of a project, such agency and such separate contractors shall not, for the purposes of the third proviso of paragraph (4) of subsection (b) of this section, be considered joint ventures or in the relationship of contractors or subcontractors with each other or with any other contractor, at the common site of the construction.".

GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U. S.
GENERAL SERVICES ADMINISTRATION

The President
The White House
Washington, D. C. 20500

18
E

THE WHITE HOUSE
WASHINGTON

11/22/75

TO: Jim Connor

For Your Information: _____

For Appropriate Handling: _____

Pls F/F

Robert D. Linder

THE WHITE HOUSE
WASHINGTON

11/22/75

MR. PRESIDENT:

The attached is for your information. It will be handled in a routine manner unless otherwise indicated.

Jim Connor

Show to Dick Cheney

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405

November 21, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

On behalf of my family and myself, I wish to thank you for the most cordial manner in which you entertained us at the Oval Office on the occasion of my swearing in as the new Administrator of the General Services Administration (GSA). I look forward to being a part of your Administration. Also, I look forward to meeting the challenges, problems, and opportunities that are now before me.

In the short period of time that I have been involved with GSA, I have identified one problem, which will have significant impact on our agency. I am referring to the implications for GSA operations posed by the "Common Situs" bill, which has just been referred to a conference committee of the Congress.

The bill, in its present form, will have an adverse effect upon our "phase construction" program. The GSA's Public Buildings Service (PBS) is presently utilising this new management technique in the construction of Federal buildings. The essence of "phase construction" is simple and logical. Rather than wait until the entire facility is designed before beginning construction, work at the site starts as soon as those portions that need to be constructed first are designed. This process of overlapping design and construction continues until the last element of the design is completed and constructed. The principal benefit of the phased construction which utilises separate construction contracts for various building components is a 25% savings in time and a 20% savings in cost.

This approach to construction requires that GSA have the ability to award a series of separate construction contracts for each of the design packages. All of the requirements of Government contracting

are applicable to each of the separate contracts, including the requirements that contracts be awarded to the lowest responsible responsive bidder; that prevailing wage rates be paid; and that protective bonds be provided.

As of November 4, 1975, GSA has used the separate contracting procedure on 18 projects, resulting in the award of 268 separate construction contracts. We estimate that GSA will have approximately twenty phased construction projects per year for the next several years.

Any legislation that would impede the use of the separate contract process or restrict the mixing of union and non-union contractors on a Federal job site would have a serious impact on our ability to provide Government facilities for the least cost and within the minimum time.

In our opinion, the present "Common Situs" legislation would have such an effect. It is my understanding that a number of Federal agencies use this method of construction.

GSA very much regrets that the Senate did not approve a limited amendment, which would have allowed us to go forward with our program of saving millions of dollars, and while preserving the integrity and basic purpose of the proposed law. I have enclosed a copy of the language GSA proposed in its amendment.

Mr. President, I felt that it was both my duty and responsibility to you, to bring this matter to your immediate attention.

Sincerely yours,

Jack M. Eckerd
Administrator

Enclosure

THE WHITE HOUSE

WASHINGTON

December 2, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN

SUBJECT: Common Situs Picketing Legislation

A memorandum, prepared by Secretary Dunlop, outlining the current legislative status of the Common Situs Picketing legislation and analyzing the key votes in the House and the Senate is attached.

The Conference Committee on this legislation, originally scheduled for today, was postponed and has been tentatively rescheduled for 2:00 p.m. tomorrow, Wednesday, December 3.

You may be interested to know that a breakdown of the 21 conferees by their voting record on the legislation reveals the following:

- Of the 10 House representatives to the Conference, 8 voted for the bill.
- Of the 11 Senate representatives to the Conference, 10 voted for the bill.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

December 1, 1975

MEMORANDUM FOR: L. WILLIAM SEIDMAN
JOHN O. MARSH, JR.
PAUL O'NEILL

There are attached three documents dealing with Common Situs Picketing: (1) a memorandum on the legislative status of the Common Situs Picketing legislation which describes each of the major amendments and their status; (2) an analysis of the key votes on Situs Picketing in the Senate and a copy of the voting record in the House; and (3) a copy of my letter dated November 17, 1975 to Senator Javits dealing with the merits of the legislation. These memoranda are designed to be informational. They do not seek to appraise analytically the pros and cons of the legislation.

Attachments

John T. Dunlop

December 1, 1975

STATUS OF THE COMMON SITUS PICKETING LEGISLATION

I. BACKGROUND

The proposed construction common situs picketing legislation would permit a construction union to engage in otherwise lawful picketing at a construction site even though it may have a dispute with only one of the contractors. The impetus for this legislation can be traced back to the decision in NLRB v. Denver Building Trades Council, 341 U. S. 675 (1951). In that case, it was held that the contractors and subcontractors on a construction project are separate legal entities for the purposes of the secondary boycott provisions of the National Labor Relations Act. Therefore, picketing against one contractor or subcontractor was held unlawful when the effect was to induce the employees of other contractors or subcontractors to refuse to work at the site. Rules have been subsequently developed that have allowed a separate or reserved gate to be established for the employees and suppliers of the employer with whom there is a labor dispute. In such a case, the union must restrict its picketing at the construction site to that gate. Where there is no reserved gate, broader picketing would be allowed.

In philosophical terms construction workers and their unions look at a single construction project - building or factory - and regard it as an entity regardless of the fact they may work for several different contractors. The

project goes up together; it is an entity when finished; the wages, hours and working conditions of one craft influence closely those of another. On one project two crafts may work for one contractor; or on another part of the same project they may work for two different contractors. The workers and unions see a project as an industrial relations whole. Contractors on a single job in this view are not true neutrals; the unions urge that contractors in construction be regarded as interdependent as contracting in the garment industry is regarded by law.

In contrast, contractors see a project as comprised of a number of different business enterprises, each with their own balance sheet. In the contractor view each contractor, after a contract has been let to perform a portion of the project, is free to perform work as it sees fit and hence needs to be protected from union conduct directed toward other contractors on the same site.

II. SUMMARY OF THE LEGISLATION

H.R. 5900 (on which Secretary Dunlop testified on June 5, 1975) would amend the secondary boycott provisions of the National Labor Relations Act (section 8(b)(4)) to make it clear that common situs picketing would be permitted even though it has an effect on secondary employers who are jointly engaged as joint venturers or who are in the relationship of contractor and subcontractors with the primary employer on a construction project. The bill contained a special requirement of a 10-day notice on Defense and NASA projects. The bill would not permit:

(1) activities otherwise unlawful under the NLRA;

(2) activities in violation of an existing collective bargaining contract (e.g., a no-strike clause);

(3) activities when the issues in the dispute involve a union which represents employees of an employer not primarily engaged in the construction industry; and

(4) picketing for the purpose of excluding an employee because of race, creed, color, or national origin.

III. TESTIMONY OF SECRETARY DUNLOP

Secretary Dunlop appeared before the House Labor Subcommittee on June 5, 1975 and before the Senate Labor Subcommittee on July 10, 1975 to discuss the pending common situs picketing legislation. He stated that over the past 25 years, four Presidents, their Secretaries of Labor, and many Members of Congress from both parties have supported enactment of legislation similar in purpose to H.R. 5900 and S. 1479. He referred to former Secretary of Labor George P. Shultz's testimony which outlined five recommended principles or safeguards to be incorporated into the legislation. These were: (1) other than common situs picketing, no presently unlawful activity should be transformed into lawful activity; (2) the legislation should not apply to general contractors and subcontractors operating under State laws requiring direct and separate contracts on State or municipal projects; (3) the interests of industrial and independent unions must be protected; (4) the legislation should include language to permit enforceability of no-strike clauses of contracts by injunction; and (5) the legislation should encourage the private settlement of disputes which could lead to the total shutting down of a construction project by such means as a requirement for giving notice prior to picketing and limiting the duration of picketing. As Secretary Dunlop indicated, most of these

principles had been incorporated into the bills then pending or have been the subject of subsequent developments in case law or can be dealt with by appropriate legislative history.

In his testimony, Secretary Dunlop expanded Secretary Shultz's fifth point. He suggested the requirement of 10-days notice of intent to picket to the standard national labor and management organizations engaged in collective bargaining in the industry whose local unions or member contractors are involved in or affected by the dispute. He also suggested the requirement that before a local union may engage in picketing, such picketing should be authorized by the local's national union or in the alternative, consideration be given to authorization through a tripartite arbitration process. Further, he suggested that the national union should not be held liable for any damages arising out of such authorization. These three suggestions have been incorporated into the legislation (see discussion below). The union authorization rather than the arbitration approach was selected. Lastly, he suggested a 30-day limit on duration of picketing. This provision was not incorporated.

It should also be noted that during the course of his testimony before the Subcommittees, Secretary Dunlop stated that his experience has lead him to the conclusion that the legal framework surrounding collective bargaining in the construction industry is in need of revision. He concluded

by saying that he would like to reappear before the Sub-committees to discuss detailed suggestions and proposed legislation dealing generally with this matter. He did return to discuss the Construction Industry Collective Bargaining Act of 1975 which has passed the House as H.R. 9500 and the Senate as Title II of H.R. 5900.

IV. AMENDMENTS TO THE BILL

As the bill progressed through the House and Senate, several amendments were added to the bills as introduced. Discussed below are the amendments of the House Committee on Education and Labor, those adopted on the floor of the House, those made by the Senate Committee on Labor and Public Welfare, and those adopted during the debate on the Senate floor. The last section of this part discusses the Construction Industry Collective Bargaining Bill which, as previously mentioned, was passed as a separate bill (H.R. 9500) in the House and as a separate title to H.R. 5900 in the Senate.

A. AMENDMENTS OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR

The four amendments adopted by the House Committee are not likely to be eliminated in conference since the Senate Committee used the House reported bill as a basis for its action. Nothing in the House reported bill was dropped by the Senate Committee.

The following amendments were accepted by the House Committee during its deliberations of H.R. 5900.

(1) Ten-Day Notice and National Union Authorization

By Congressman Esch:

> Provided further, That a labor organization before engaging in activity permitted by the above proviso shall provide prior written notice of intent to strike or to

refuse to perform services, of not less than ten days to all unions and the employer and the general contractor at the site and to any national or international labor organization of which the labor organization involved is an affiliate and to the Collective Bargaining Committee in Construction: Provided further, That at any time after the expiration of ten days from the transmittal of such notice, the labor organization may engage in activities permitted by the above provisos if the national or international labor organization of which the labor organization involved is an affiliate gives notice in writing authorizing such action: Provided further, That authorization of such action by the national or international labor organization shall not render it subject to any criminal or civil liability arising from activities notice of which was given pursuant to the above provisos.

This amendment incorporated three of Secretary Dunlop's suggestions: 10-days notice of intent to picket and authorization by the national or international labor organization of its local union's picketing. It further states that the national or international shall not be subject to civil or criminal liability as a result of any activities of which it has been given notice. The Senate passed identical language but added it to different provisions of the bill (see discussions below).

The amendment was accepted without objection.

(2) Sex Discrimination Picketing

By Congressman Thompson:

Add the underlined word: Provided further, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin:

This amendment makes it clear that the bill does not authorize picketing for an objective of sex discrimination.

The amendment was approved without objection.

(3) Protection of Independent Unions

By Congressmen Esch and Quie:

> Provided further, That nothing in the above provisos shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization if another labor organization is lawfully recognized as the representative of his employees:

As explained in the House Committee report, this amendment was designed to prevent common situs picketing as a means of driving out the so-called "independent unions" which were not affiliated with the AFL-CIO.

The report does not indicate if any opposition was voiced to the amendment. It was adopted.

(4) Otherwise Unlawful Activities

By Congressman Esch:

> Provided further, Except as provided in the above proviso nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection:

As originally drafted, H.R. 5900 authorized common situs picketing only when the labor dispute was "not unlawful" under the Labor Act. The amendment was introduced to clarify that except for those activities permitted by the first proviso of the bill, no other act or conduct which heretofore was or may have been an unfair labor practice was authorized.

The House report does not indicate if opposition was voiced to the amendment. It was adopted.

B. AMENDMENTS TO H.R. 5900 WHICH WERE ACCEPTED DURING CONSIDERATION ON THE FLOOR OF THE HOUSE REPRESENTATIVES

(1) State Bidding Laws.

By Congressman Esch:

> Provided further, That nothing in the above proviso shall be construed to permit any picketing of a common situs by a labor organization where a State law requires that separate bids and direct awards to an employer in conformity with the requirements of applicable State law, and such State and employer are not to be considered joint venturers, contractors and subcontractors in relationship with each other or with any other employer at the common site:

As explained by Congressman Esch, some States have laws requiring public agencies to advertise for bids on the component parts in the construction of public facilities. The contracts to each are to be awarded on the basis of the lowest responsible bidder. As a result, the successful contractors are not in the relation of contractors, subcontractors, or joint venturers.

This was one of Secretary Shultz's "five points."

Chairman Thompson opposed the amendment on the Floor on the basis that the legislative history, embodied in the House Committee report, made it clear "that the bill, H.R. 5900, does not apply in the circumstances, as the various employees would not be jointly engaged in the project because the State law would in effect nullify other

consequences which would flow otherwise from the commonality of purpose and operations." He stated that the amendment was therefore redundant.

The amendment was accepted on a recorded vote of 229-175. It is expected that a provision similar to this will be retained by the Conferees since it is substantially similar to a proposed new section 8(h) added by the Senate Committee and present in the Senate-passed bill. (See IV:C.1)

(2) Union Membership Discrimination

By Congressman Esch:

> Provided further, That nothing in the above proviso shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is to cause or attempt to cause an employer to discriminate against any employee, or to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership:

Congressman Esch explained that the amendment was intended to clarify the point that there is an inherent right of individuals not to join labor organizations. He conceded that sections 8(a)(3) and 8(b)(2) (which prohibit discrimination against any employee because of union membership or non-membership) protect the individual in this regard, but the amendment was offered to make it clear that Congress by permitting a common situs picketing was not allowing it for reasons that would "interfere with an individual's right to join or right not to join a labor organization."

The amendment was agreed to without a vote.

It is expected that the Senate Conferees will not accept this language. However, the Senate Committee added language that would achieve a similar objective. (Discussed below at IV.C.3)

(3) Product Boycotts

By Congressman Esch:

> Provided further, That nothing in the above proviso shall be construed to permit any picketing of a common situs by a labor organization to force, require or persuade any person to cease or refrain from using, selling, purchasing, handling, transporting, specifying, installing, or otherwise dealing in the products or systems of any other producer, processor or manufacturer:

Congressman Esch explained that the purpose of the amendment was one of clarification. Under existing law, where there is an otherwise lawful product boycott involving prefabricated products, labor organizations may picket at a separate gate. The amendment is aimed at insuring that such a product boycott cannot be extended to the entire construction site.

The amendment was accepted on a recorded vote of 204-188.

It is expected that this language will be retained by the Conferees since it is identical to an amendment proposed by Senator Randolph and adopted 93-0.

(4) Employers Primarily Engaged in the Construction Industry

By Congressman Ashbrook:

Amends the language of the first proviso to change the language from "employed by any person" to "employed by any employer primarily engaged in the construction industry".

The Committee report stated that H.R. 5900 is limited to individuals employed by "persons in the construction industry." The purpose of the amendment was to clarify this to insure that the common situs picketing could not be directed against employees who are employed in other industries, State government employees or employees covered by the Railway Labor Act.

The amendment was accepted without opposition.

It is expected that the Senate Conferees will not accept this language.

C. AMENDMENTS ADOPTED BY THE SENATE LABOR COMMITTEE DURING ITS DELIBERATIONS

(1) State Laws

By Senator Taft:

Notwithstanding the provisions of this or any other Act, where a State law requires separate bids and direct awards to employers for construction, the various contractors awarded contracts in accordance with such applicable State law shall not, for the purposes of the third proviso at the end of paragraph (4) of subsection (b) of this section, be considered joint ventures or in the relationship of contractors and subcontractors with each other or with the State or local authority awarding such contracts at the common site of the construction.

This amendment is substantially the same as a provision in the House bill. As explained in the Senate report, under the terms of the amendment, contractors awarded separate contracts for those portions of the construction project required by the law of the State would be exempted from the application of the common situs doctrine established by the legislation.

The amendment was accepted by unanimous vote.

(2) No-Strike Clause

By Senator Taft:

> Notwithstanding the provisions of this or any other act, any employer at a common construction site may bring an action for injunctive relief under section 301 of the Labor Management Relations Act (29 U.S.C. 141) to enjoin any strike or picketing at a common situs in breach of a no-strike clause of a collective-bargaining agreement relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement.

This amendment codifies for the construction industry the Supreme Court's Boy's Market case decision authorizing District Courts to grant injunctions for strikes or lockouts over a grievance in violation of a no-strike clause when both parties are contractually bound to arbitrate. The salient points of the amendment are that there must be a "no-strike" clause and the issue in dispute must be subject to final and binding arbitration or other method of final settlement.

The amendment was adopted by unanimous vote.

(3) Removal of Employee on the Grounds of Union Membership and Protection of Independent Unions

By Senator Taft:

Add the underlined words: Provided further, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin, or because of the membership or non-membership of any employee in any labor organization. Provided further, That nothing in the above proviso shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization if another labor organization is lawfully recognized as the representative of his employees or to exclude any such labor organization on the ground that such labor organization is not affiliated with a national or international labor organization which represents employees of an employer at the common site:

The amendment prohibits common situs picketing on the grounds that an employee on the site does, or does not, belong to a union or because picketing directed at excluding a union from the site because it is not affiliated with a national or international labor organization (i.e., an independent).

The amendment was adopted by a vote of 11-3.

D. AMENDMENTS TO H.R. 5900 WHICH WERE ACCEPTED DURING CONSIDERATION ON THE SENATE FLOOR

(1) Recognition Picketing

By Senator Hathaway:

Strike the underlined words, "Provided further, That nothing in the above proviso shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization if another labor organization is lawfully recognized as the representative of his employees" and insert in lieu thereof the following: "presently prohibited by paragraph 7 of subsection (b): And provided further, That if a labor organization engages in picketing for an object described in paragraph 7 of subsection (b) and there has been filed a petition under subsection (c) of section 9, and a charge under subsection (b) of section 10, the Board shall conduct an election and certify the results thereof within fourteen calendar days from the filing of the later of the petition and the charge."

The present section 8(b)(7) of the NLRA prohibits recognitional or organizational picketing if there has been a representation election within 12 months or another union is lawfully recognized and a representation question cannot be raised under the Act. In other circumstances, a union may engage in recognitional or organizational picketing for a reasonable period not to exceed 30 days without filing an election petition.

This amendment deletes the language prohibiting recognitional picketing at a common situs if another union is lawfully recognized. However it incorporates by reference the limitations of section 8(b)(7) and that is one of the prohibitions in that subsection. It neither liberalizes

nor changes the restrictions on recognitional picketing. Picketing which was unlawful under 8(b)(7) continues to be unlawful. Additionally, the amendment provides for an expedited representation election in the case of recognitional picketing at a common situs. It provides that when a petition for an election is filed by either the employer or a union, and an unfair labor practice charge is filed under 8(b)(7) alleging that organizational or recognitional picketing is taking place, the NLRB must hold an election and certify the results within 14 days from the later of the two filings.

The amendment was accepted on a recorded vote of 60-17.

It is expected that this language will be retained by the Conferees.

(2) Residential Construction

By Senator Beall:

Add the underlined language: "at the site of the construction, alteration, painting, or repair of a building, structure, or other work involving other than residential structures of three stories, or less, without an elevator".

The amendment exempts from the bills provisions residential structures of three stories or less without an elevator.

The amendment was agreed to on a recorded vote of 79-16.

At the end of debate, there was a colloquy between Senator Allen and others, most notably Senator Javits, in which Senator Allen stated firmly that he hoped the Senate Conferees would insist upon this amendment during their deliberations with the House Conferees. No promise was made. However, it is our understanding that a compromise will result which will limit the amendment to single family units.

It should be noted that a similar amendment was proposed by Mr. Anderson of Illinois during the debate in the House of Representatives but was defeated.

(3) Product Boycotts

By Senator Randolph:

> Provided further, That nothing in the above proviso shall be construed to permit any picketing of a common situs by a labor organization to force, require, or persuade any person to cease or refrain from using, selling, purchasing, handling, transporting, specifying, installing, or otherwise dealing in the products or systems of any other producer, processor, or manufacturer".

This language is identical to the Esch product boycott amendment which was accepted on the floor of the House of Representatives.

The amendment was accepted on a recorded vote of 93-0.

It is expected that the language will be retained by the Conferees.

(4) Existing Construction

By Senator Allen:

> Provided further, That the provisions of the Act shall not be applicable as to construction work contracted for and on which work had actually started on November 15, 1975.

The amendment was accepted on a recorded vote of 78-19.

It is expected that the amendment will not be retained by the Conferees.

(5) Notice and Authorization Amendment

By Senator Williams:

> This amendment places the following provisions under section 8(g) rather than 8(b)(4): Required notice; Authorization of picketing by the national or international labor organization; Nonliability of national or international labor organization from activities of which it has notice; and Picketing on Army, Navy, or Air Force installations at which munitions, weapons, missiles, and space vehicles are producted, tested, developed, fired, or launched.

The amendment takes identical language previously in a proviso to section 8(b)(4) and places it in a new section 8(g)(ii). The present section 8(g) contains the requirements for notices involving health care institutions.

Accordingly, the effect of the amendment would be to make failure to comply with the notice and national union authorization requirements enforceable in the same way that the health care institution notices are enforced. Under section 10(j), health care notices are enforced in the same manner as unfair labor practice cases generally except

violations of section 8(b)(4) and section 8(b)(7) which will be discussed further below.

The NLRB has the discretionary authority under section 10(j) to seek an injunction in cases involving unfair labor practices. After a complaint has been issued, the Board may seek an injunction pending the adjudication of the case by the NLRB and the issuance, if appropriate, of a cease and desist order.

On the other hand, section 10(l) governs injunctions involving violations of section 8(b)(4) (secondary boycotts) and section 8(b)(7) (recognition picketing). Section 10(l) provides that the NLRB must:

1. give priority to these cases;
2. conduct a preliminary investigation forthwith; and
3. seek an injunction if the investigation indicates reasonable cause that a violation occurred and that a complaint should issue.

Further, section 303 of the Labor Management Relations Act authorizes private damage actions for secondary boycotts which violate section 8(b)(4).

This amendment was proposed by the AFL-CIO, introduced by Senator Williams and supported by Senator Javits. Secretary Dunlop wrote Chairman Williams on November 12, 1975 endorsing this amendment as a useful clarification of his intentions. It was accepted without a recorded vote.

It is expected that this amendment will be retained by the Conferees.

(6) Immunity Clarification

By Senator Williams:

Add the underlined words: Provided further, That authorization of such action by the national or international labor organization shall not render it subject to any criminal or civil liability arising from activities, notice of which was given pursuant to the above proviso unless such authorization is given with actual knowledge that the picketing is to be willfully used to achieve an unlawful purpose.

It was feared by some that the original language would provide immunity for nationals or internations for participation in or authorization of activities they knew to be unlawful. The amendment provides that there will be no immunity if they actually know that the picketing is to be willfully used to achieve an unlawful purpose.

The amendment was accepted without a recorded vote.

It is expected that the Conferees will retain this language.

(7) Technical Amendment

By Senator Williams:

The amendment takes the language: "and there is a labor dispute, not unlawful under this Act or in violation of an existing collective bargaining contract, relating to the wages, hours, or working conditions of employees employed at such site by any of such employers and the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry:" and makes it a proviso.

This language was previously part of the first proviso of the bill. The purpose appears to be to shorten the formerly lengthy and complex first proviso. However, the amendment makes no substantive change in language.

The amendment was accepted without a recorded vote.

It is expected that the amendment will be retained by the Conferees.

E. CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING LEGISLATION

As previously mentioned, both Houses have passed amended versions of the Administration's Construction Industry Collective Bargaining Act of 1975. The Act is designed to work by bringing a wider focus to the negotiation of local collective bargaining contracts by providing an enhanced role for the standard national construction unions and the national construction contractor associations. It is intended to bring about a lessening of "whipsawing" and "leapfrogging" negotiations in the highly fragmented construction industry, which result in distortions in appropriate wage and benefit levels. The legislation was passed by the House as H.R. 9500 and by the Senate as title II to H.R. 5900.

(1) Administration Bill

As proposed by Secretary Dunlop, this legislation would, in brief:

(a) establish a tripartate Construction Industry Collective Bargaining Committee (CICBC) to deal with labor disputes in the construction industry;

(b) require advance notice to national labor and management organizations and to the CICBC of upcoming contract renewal negotiations;

(c) empower the CICBC to take jurisdiction of a matter and take various actions aimed at assisting the parties to reach an appropriate settlement;

(d) provide for a "cooling off" period of up to 30 days beyond the expiration of an existing contract upon taking of jurisdiction by the CICBC;

(e) permit the CICBC to request participation in local negotiations by the appropriate national labor and management organizations, in which case the national union must approve any new contract; and

(f) expire in about 5 years.

(2) Congressional Action

The House and Senate versions of this legislation differ from the Administration proposal in the following significant ways:

(a) The Senate bill permits the CICBC to suspend or revoke the national union approval requirement at any time after it has requested national participation

in negotiations. Neither the Administration bill nor the House bill gives the CICBC such authority;

(b) The House bill includes exemptions from both the rulemaking and hearing requirements of the Administrative Procedure Act (APA) which was supported by the Labor Department, although not contained in the Administration bill. The Senate bill only provides an exemption from the APA's hearing requirements;

(c) The Administration bill contains the following immunity provision for national organizations participating in negotiations under the Act:

> No standard national construction labor organization or national construction contractor association shall have any criminal or civil liability arising out of a request by the [CICBC] for its participation in collective bargaining negotiations, participation in collective bargaining negotiations or the approval or refusal to approve a collective bargaining agreement. Nor shall any of the foregoing constitute a basis for the imposition of civil or criminal liability on a standard national construction labor organization or national construction contractor association.

The House bill substitutes "because of" for "arising out of" in the first sentence, deletes the second sentence, and adds the following two provisos:

> Provided, That this immunity shall not insulate from civil or criminal liability standard national construction labor organizations or national construction contractor associations when the performance of acts under this statute are willfully used to achieve a purpose which they know to be unlawful: Provided further, That a standard labor organization shall not by virtue of the performance of its duties under this Act be deemed the representative of any affected employees within the meaning of section 9(a) of the National Labor Relations Act or become a party to or bear any liability under any agreement it approves pursuant to its responsibilities under this Act.

The Senate bill changes the first sentence of the Administration bill by substituting "directly or indirectly for actions or omissions pursuant to" for "arising out of" in the first sentence. Like the House bill, the Senate bill deletes the second sentence of the Administration's version and adds two provisos very similar to those contained in the House bill. However, the language of the first proviso is changed somewhat so as not to insulate a national organization from liability "when it performs an act under this statute to willfully achieve a purpose which it knows to be unlawful." Both the House bill and the Senate bill provide for narrower grants of immunity than the Administration bill.

(d) The House bill specifies the quorum required for CICBC action, whereas the Administration bill and the Senate bill leaves this as well as other procedural matters to CICBC regulations;

(e) The Senate bill permits Labor Department attorneys to represent the CICBC in courts (except the Supreme Court) subject to the supervision and control of the Justice Department. Such authority is not contained in either the Administration bill or the House bill.

In addition, there are a number of more technical differences which also have to be resolved in Conference.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

November 20, 1975

KEY VOTES ON SITUS PICKETING BILL (H.R. 5900) IN THE SENATE

FINAL PASSAGE: 52 - 45 (vote record attached)

FOR: 42 Democrats
10 Republicans

AGAINST: 20 Democrats
25 Republicans

November 18 Cloture Vote: 62 - 37 (vote record attached)

FOR: 47 Democrats
15 Republicans

AGAINST: 22 Democrats
15 Republicans

Beall Amendment: 79-16 (vote record attached)

FOR: 48 Democrats
31 Republicans

AGAINST: 11 Democrats
5 Republicans

Javits-Williams Amendment
(to incorporate Dunlop bill): 61 - 22 (vote record attached)

FOR: 43 Democrats
18 Republicans

AGAINST: 7 Democrats
15 Republicans

The following Senators voted in favor of cloture 3 times and voted NO on final passage:

BENTSEN
BUMPERS
GLENN
McINTYRE
NELSON
HUGH SCOTT

Senator Pearson voted in favor of cloture twice and vote NO on final passage.

Senator Long voted for cloture November 11, against cloture Nov. 14, for cloture Nov. 18, and for final passage.

The following Senators did not vote on final passage:

BAYH
BUCKLEY
ROTH

* * *

Y - Yea
N - Nay
A - Absent

KEY VOTES ON H.R. 5900

	Cloture November 11	Cloture November 14	Cloture November 18	Final Passage	Beall Amend	Jav-k Amen
Abourezk	Y	Y	Y	Y	Y	Y
Allen	N	N	N	N	Y	N
Baker	N	N	N	N	Y	Y
Bartlett	N	N	N	N	Y	N
Bayh	Y	Y	Y	A	A	A
Beall	Y	Y	Y	N	Y	Y
Bellmon	Y	N	N	N	Y	Y
Bentsen	Y	Y	Y	N	Y	A
Bider	Y	Y	Y	Y	Y	A
Brock	Y	N	N	N	Y	Y
Brooke	Y	Y	Y	Y	N	Y
Buckley	Y	N	N	A	Y	Y
Bumpers	Y	Y	Y	N	Y	Y
Burdick	Y	Y	Y	Y	Y	Y
Byrd, Harry	A	N	N	N	Y	N
Byrd, Robert	Y	Y	Y	Y	Y	Y
Cannon	N	N	N	N	Y	Y
Case	Y	Y	Y	Y	N	Y
Chiles	Y	N	N	N	Y	Y
Church	Y	Y	Y	Y	Y	Y
Clark	Y	Y	Y	Y	N	Y
Cranston	Y	Y	Y	Y	N	Y
Culver	Y	Y	Y	Y	A	Y
Curtis	N	A	N	N	Y	N
Dole	N	N	N	N	Y	Y
Domenici	N	A	N	N	Y	N
Durkin	Y	Y	Y	Y	Y	Y
Eagleton	Y	Y	Y	Y	Y	Y
Eastland	N	N	N	N	Y	N
Fannin	N	N	N	N	Y	N
Fong	N	N	N	N	Y	Y
Ford	Y	A	Y	Y	Y	A
Garn	N	A	A	N	Y	N
Glenn	Y	Y	Y	N	Y	A
Goldwater	N	N	N	N	Y	A
Gravel	Y	Y	Y	Y	N	Y
Griffin	N	N	N	N	Y	N
Hansen	N	A	N	N	Y	N
Hart, Gary	Y	Y	Y	Y	Y	A
Hart, Philip	A	Y	Y	Y	A	Y
Hartke	Y	Y	Y	Y	N	Y
Haskell	Y	Y	Y	Y	Y	A

	Cloture November 11	Cloture November 14	Cloture November 18	Final Passage	Beall Amend	Jav-W Amen
Hatfield	Y	Y	Y	N	Y	N
Hathaway	Y	Y	Y	Y	Y	Y
Helms	N	A	N	N	Y	N
Hollings	N	N	N	N	Y	Y
Hruska	N	A	N	N	Y	N
Huddleston	Y	N	N	N	Y	Y
Humphrey	Y	Y	Y	Y	Y	Y
Inouye	Y	Y	Y	Y	Y	Y
Jackson	Y	Y	Y	Y	N	Y
Javits	Y	Y	Y	Y	N	Y
Johnston	N	N	N	N	Y	N
Kennedy	Y	Y	Y	Y	N	Y
Laxalt	N	N	N	N	Y	N
Leahy	Y	Y	Y	Y	Y	Y
Long	Y	N	Y	Y	Y	Y
McClellan	N	N	N	N	Y	N
McClure	N	A	N	N	Y	N
McGee	Y	Y	Y	Y	Y	Y
McGovern	Y	Y	Y	Y	Y	Y
McIntyre	Y	Y	Y	N	Y	A
Magnuson	Y	Y	Y	Y	Y	Y
Mansfield	Y	Y	Y	Y	Y	Y
Mathias	Y	Y	Y	Y	Y	A
Metcalf	Y	Y	Y	Y	N	Y
Mondale	Y	Y	Y	Y	Y	Y
Montoya	Y	A	Y	Y	N	Y
Morgan	N	A	N	N	A	N
Moss	Y	Y	Y	Y	Y	Y
Muskie	Y	Y	Y	Y	Y	Y
Nelson	Y	Y	Y	N	Y	Y
Nunn	N	N	N	N	Y	Y
Packwood	Y	Y	Y	Y	N	Y
Pastore	Y	Y	Y	Y	Y	A
Pearson	A	Y	Y	N	Y	A
Pell	A	Y	Y	Y	Y	Y
Percy	Y	Y	Y	Y	Y	Y
Proxmire	Y	Y	Y	Y	Y	Y
Randolph	Y	Y	Y	Y	Y	A
Ribicoff	Y	Y	Y	Y	N	Y
Roth	Y	N	N	A	A	A
Schweiker	Y	Y	Y	Y	N	Y
Scott, Hugh	Y	A	N	N	Y	Y
Scott, William	N	N	N	N	Y	N
Sparkman	N	N	Y	Y	Y	Y
Stafford	Y	Y	N	N	Y	A
Stennis	N	N	Y	Y	Y	Y
Stevens	Y	Y	Y	Y	Y	Y
Stevenson	Y	Y				

	November 11	Cloture November 14	Cloture November 18	Final Passage	Beall Amend	Jav-[illegible] Amend
Stone	Y	N	N	N	Y	N
Symington	Y	Y	Y	Y	Y	A
Taft	Y	Y	Y	Y	Y	Y
Talmadge	N	N	N	N	Y	Y
Thurmond	N	N	N	N	Y	N
Tower	N	N	N	N	Y	N
Tunney	Y	Y	Y	Y	N	Y
Weicker	Y	Y	Y	Y	Y	Y
Williams	Y	Y	Y	Y	N	Y
Young	N	N	N	N	Y	A

Roll Call Vote in House on Final Passage of H.R. 5900 July 25, 1975

[Roll No. 437]

YEAS—230

Abzug	Gude	Patman, Tex.
Adams	Hall	Patten, N.J.
Addabbo	Hamilton	Patterson,
Ambro	Hanley	Calif.
Anderson,	Hannaford	Pepper
Calif.	Harrington	Perkins
Annunzio	Harris	Peyser
Ashley	Hawkins	Pike
Aspin	Hayes, Ind.	Pressler
AuCoin	Hays, Ohio	Price
Barrett	Hechler, W. Va.	Pritchard
Baucus	Heckler, Mass.	Quie
Beard, R.I.	Heinz	Railsback
Bennett	Helstoski	Randall
Bergland	Hicks	Rangel
Biester	Hillis	Rees
Bingham	Holtzman	Reuss
Blanchard	Howard	Richmond
Blouin	Howe	Riegle
Boggs	Ichord	Rinaldo
Boland	Jacobs	Risenhoover
Bolling	Johnson, Calif.	Rodino
Bonker	Jones, Ala.	Roe
Brademas	Jones, Okla.	Roncalio
Breaux	Jordan	Rooney
Brodhead	Karth	Rosenthal
Brooks	Kastenmeier	Rostenkowski
Brown, Calif.	Kemp	Roush
Burke, Calif.	Ketchum	Roybal
Burke, Mass.	Koch	Runnels
Burlison, Mo.	LaFalce	Russo
Burton, John	Lagomarsino	Ryan
Burton, Phillip	Lehman	St Germain
Carney	Litton	Santini
Carr	Lloyd, Calif.	Sarasin
Chisholm	Long, La.	Sarbanes
Clausen,	McCormack	Scheuer
Don H.	McDade	Schroeder
Clay	McFall	Seiberling
Collins, Ill.	McHugh	Sharp
Conte	McKinney	Shipley
Corman	Macdonald	Simon
Cornell	Madden	Sisk
Cotter	Maguire	Slack
Daniels, N.J.	Matsunaga	Smith, Iowa
Davis	Mazzoli	Solarz
Delaney	Meeds	Spellman
Dellums	Melcher	Stanton,
Dent	Metcalfe	James V.
Diggs	Meyner	Stark
Dingell	Mezvinsky	Stokes
Dodd	Mikva	Stratton
Downey, N.Y.	Miller, Calif.	Studds
Drinan	Mills	Sullivan
Duncan, Oreg.	Mineta	Symington
Early	Minish	Talcott
Eckhardt	Mink	Thompson
Edgar	Mitchell, Md.	Traxler
Edwards, Calif.	Moakley	Tsongas
Eilberg	Moffett	Udall
Evans, Ind.	Mollohan	Ullman
Fary	Moorhead, Pa.	Van Deerlin
Fascell	Morgan	Vander Veen
Fish	Moss	Vanik
Fisher	Mottl	Vigorito
Fithian	Murphy, Ill.	Walsh
Flood	Murtha	Waxman
Florio	Myers, Ind.	Weaver
Ford, Mich.	Natcher	Whalen
Ford, Tenn.	Nedzi	Wilson, C. H.
Fraser	Nix	Wilson, Tex.
Fulton	Nolan	Wolff
Gaydos	Nowak	Wright
Giaimo	Oberstar	Yates
Gilman	Obey	Yatron
Goldwater	O'Hara	Young, Ga.
Gonzalez	O'Neill	Zablocki
Green	Ottinger	Zeferetti

NAYS—178

Abdnor	Archer	Bedell
Alexander	Armstrong	Bevill
Anderson, Ill.	Ashbrook	Bowen
Andrews, N.C.	Bafalis	Breckinridge
Andrews,	Bauman	Brinkley
N. Dak.	Beard, Tenn.	Broomfield
Brown, Ohio	Hansen	Pettis
Broyhill	Harkin	Pickle
Buchanan	Harsha	Poage
Burgener	Hastings	Preyer
Burke, Fla.	Hébert	Regula
Burleson, Tex.	Hefner	Rhodes
Butler	Henderson	Roberts
Byron	Hightower	Robinson
Carter	Hinshaw	Rogers
Casey	Holland	Rose
Cederberg	Holt	Rousselot
Chappell	Hubbard	Ruppe
Clawson, Del	Hungate	Satterfield
Cleveland	Hutchinson	Schneebeli
Cochran	Hyde	Schulze
Cohen	Jarman	Sebelius
Collins, Tex.	Johnson, Colo.	Shriver
Conable	Jones, N.C.	Shuster
Coughlin	Jones, Tenn.	Sikes
Crane	Kasten	Skubitz
D'Amours	Kazen	Smith, Nebr.
Daniel, Dan	Kelly	Snyder
Daniel, R. W.	Kindness	Spence
de la Garza	Krebs	Stanton,
Derrick	Krueger	J. William
Derwinski	Latta	Steed
Devine	Lent	Steelman
Dickinson	Levitas	Steiger, Ariz.
Downing, Va.	Lloyd, Tenn.	Steiger, Wis.
Duncan, Tenn.	Long, Md.	Stephens
du Pont	Lott	Stuckey
Edwards, Ala.	Lujan	Symms
Emery	McCollister	Taylor, Mo.
English	McDonald	Taylor, N.C.
Erlenborn	McEwen	Teague
Esch	McKay	Thone
Evans, Colo.	Madigan	Thornton
Evins, Tenn.	Mahon	Treen
Fenwick	Mann	Vander Jagt
Findley	Martin	Waggonner
Flowers	Mathis	Wampler
Flynt	Michel	White
Fountain	Milford	Whitehurst
Frenzel	Miller, Ohio	Whitten
Frey	Mitchell, N.Y.	Wiggins
Fuqua	Montgomery	Wilson, Bob
Gibbons	Moore	Winn
Ginn	Moorhead,	Wydler
Goodling	Calif.	Wylie
Gradison	Mosher	Young, Alaska
Grassley	Myers, Pa.	Young, Fla.
Guyer	Neal	Young, Tex.
Hagedorn	Nichols	
Haley	O'Brien	
Hammer-	Passman	
schmidt	Pattison, N.Y.	

NOT VOTING—28

Badillo	Eshleman	Landrum
Baldus	Foley	Leggett
Bell	Forsythe	McClory
Biaggi	Horton	McCloskey
Brown, Mich.	Hughes	Murphy, N.Y.
Clancy	Jeffords	Quillen
Conlan	Jenrette	Staggers
Conyers	Johnson, Pa.	Wirth
Danielson	Keys	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mrs. Keys for, with Mr. Landrum against.

Mr. Conyers for, with Mr. McClory against.

Mr. McCloskey for, with Mr. Conlan against.

Mr. Bell for, with Mr. Quillen against.

Mr. Danielson for, with Mr. Eshleman against.

Mr. Biaggi for, with Mr. Johnson of Pennsylvania against.

Until further notice:

Mr. Murphy of New York with Mr. Brown of Michigan.

Mr. Badillo with Mr. Jeffords.

Mr. Baldus with Mr. Clancy.

Mr. Staggers with Mr. Jenrette.

Mr. Hughes with Mr. Foley.

Mr. Leggett with Mr. Wirth.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

November 17, 1975

Honorable Jacob Javits
United States Senate
Washington, D.C. 20510

Dear Senator Javits:

In response to your request, I am writing to summarize briefly the reasons why I support S. 1479, the Common Situs Picketing Bill, currently before the Senate.

As you know, my personal experience as a mediator and arbitrator in the construction industry consists of more than 30 years of continuous involvement. Over that time, I have observed and resolved a great variety of disputes in this highly complex and fragmented industry, many of them bitter and emotional. And over that time, I have seen the issue of common situs picketing develop since its beginning in 1949. That broad overview has led me to a number of conclusions upon which I base my support of this bill.

In general, mixing labor policy (union and non-union) on any single job is not conducive to sound labor relations, to cooperation on a job, nor to increased productivity. Rather, mixing labor policies tends more to stimulate disputes between workers operating under different wages and benefits doing the same or similar work, who must necessarily interface with each other for practical purposes. A single, consistent labor policy (union or non-union) enhances overall labor relations and, in the long run, results in beneficial gains for both the employers and employees, and the public.

Much of the criticism of the legislation has been based on the erroneous assumption that the legislation would legalize picketing for purposes now unlawful under

existing statutes -- racial discrimination, picketing directed at non-construction industrial employers or work operations other than construction, product boycott, etc. This is not the case as the legislation clearly provides.

Nor is the bill inflationary. Construction wages and fringe benefits are negotiated typically at intervals of two or three years on an area-wide basis, while issues related to common situs picketing arise on individual projects during the term of the agreement.

In my considered judgment, the passage of the common situs picketing legislation is not likely to produce major disruptive effects in the industry as often charged.

Past legislative proposals have incorporated many amendments and a number of restraints to protect the rights of employers, employees, and neutral third parties. Among those proposed for example by Secretary George P. Shultz in 1969 and included in the current legislation are: (1) the prohibition against racial picketing, (2) the enforceability of no-strike clauses, and (3) protections for industrial and independent unions.

There are, in addition, two new provisions which this Administration proposed in both S. 1479 and H.R. 5900, which I believe strengthen the worthiness of this bill. These provisions set forth the requirement of (1) a ten day period of notice of intent to picket that must be given to various interested parties and to the standard national labor organizations engaged in collective bargaining in the industry, and (2) authorization of such picketing by the appropriate national union.

These requirements should contribute substantially to the peaceful resoltuion of disputes. They would, I am convinced, contribute greatly to responsible behavior by labor organizations and contractors and should mitigate the concerns of those opposed to the legislation.

As you are aware, there currently is another bill before the Congress dealing with the construction industry--the Construction Industry Collective Bargaining Bill. It

stands, I believe, on its own merit in providing a much needed mechanism by which the sector of industry engaged in collective bargaining could work cooperatively toward solving many of its problems.

In closing, I hope these comments are helpful to you in the Senate's consideration of S. 1479. If I can be of any future assistance, please let me know.

Sincerely,

John T. Dunlop

File

President Ford Committee

1828 L STREET, N.W., SUITE 250, WASHINGTON, D.C. 20036 (202) 457-6400

December 7, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: BO CALLAWAY

SUBJECT: Common Situs Picketing

There has been so much emotion on common situs picketing that I have attempted to look at it unemotionally even though I realize that politically there is nothing that we can do to have it viewed on its merits.

I have asked some very competent attorneys in the area to put together an objective package, and I am inclosing this in memorandum form.

It's the best that I have seen at spelling out both sides of the issue objectively and I believe that you or members of your staff might be interested in reading it.

Attachment

cc: Dick Cheney

M E M O R A N D U M

SUBJECT: COMMON SITUS PICKETING AND CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING "PACKAGE" BILL

Preface

There is no doubt that the so-called "common situs picketing bill" is politically one of the most sensitive and emotional pieces of legislation pending at this time before the Congress. In addition, the sensitivity of this issue is heightened by the fact that this bill will amend that portion of the National Labor Relations Act (the "Act"), which is so technical that it borders on the metaphysical. Accordingly, a large portion of the criticism directed toward this legislation has been, in our estimation, caused by utter confusion and a general misunderstanding of the subject matter. This is not to say, however, that the legislation merits enactment.

Generally, both advocates and opponents of the bill predict polarization of the construction industry into union and non-union camps as a result of enactment. Advocates contend that such polarization will help to establish a consistent labor policy in each "camp", the results of which will be stabilized labor relations nationally. Opponents, on the other hand, submit that this polarization will dramatically increase labor strife and create an upsurge in the cost of construction.

Support for the "package" bill is also polarized along the traditional lines of labor relations in the United States. Advocating its passage are mainly labor-oriented organizations and the AFL-CIO hierarchy. Opposition, which appears to be disproportionately vocal, comes from the entire construction industry (both union and non-union contractors as well as by the National Minority Contractors Association), by the national press[1/] and by leaders of industry and the business community, by the U. S. Chamber of Commerce and the National Association of Manufacturers. Strong support for the bill has been strangely devoid, especially when one considers that the construction industry collective bargaining bill has been advocated by Secretary Dunlop for almost twenty years. Nevertheless, the Department of Labor and the in-house AFL-CIO propaganda machinery have ignored, for all practical purposes, the public relations aspects of this bill.

Current Status of the Bill

At this writing, the common situs picketing bill (H.R. 5900) has been amended and passed by the Senate (S. 1479), including

---

1/ At least 170 different daily and weekly news periodicals in the United States have editorialized against the common situs bill. Some of these are the New York Times, Washington Post, Wall Street Journal, Washington Star, Philadelphia Inquirer, San Francisco Examiner, Dallas Morning News, and U.S. News and World Report. To our knowledge, no newspaper (other than labor union "house" periodicals) has endorsed the bill.

a merger with the construction industry collective bargaining bill (S. 2305). The amended bill is now before the Senate - House Conferees for final amendments and consolidation.

Part I of this memorandum addresses the common situs provisions and Part II of the memorandum discusses the construction collective bargaining provisions. In order to present an objective view, no conclusions are presented.

Part I - Common Situs Picketing

A. Legislative History of the Common Situs Bill

In response to increased labor strife at the end of World War II, including the use of secondary boycotts, Congress added what is now Section 8(b)(4)(B) to the corpus of the National Labor Relations Act. The purpose of this section, in the words of the late Senator Taft, is to protect the neutral third person "who is wholly unconcerned in the disagreement between an employer and his employees." (93 Cong. Rec. 4198).

The complexity of this legislation was underscored by the Supreme Court when it observed that "The tapestry that has been woven" by the NLRB and the Courts in interpreting and enforcing the secondary boycott provisions "is among the labor law's most intricate." NLRB v. Operating Engineers, 400 U.S. 293, 303 (1971).

The particular area of secondary boycott law dealt with by S. 1479/H.R. 5900 results solely from the building trades unions' desire to overrule the Supreme Court's decision in NLRB v. Denver Building Trades Council, 341 U.S. 675 (1951).

The facts of this case are as follows. The general con-

tractor on a construction project subcontracted certain electrical work to a non-union subcontractor who paid its workers 42 cents an hour less than the union scale. When the non-union electricians reported to work, the Denver Building Trades Council picketed the entire job site, and the union workers employed by the general contractor honored the picket line by refusing to enter the project. The object of the picket line was to force the non-union subcontractor off the job, and the contractor did in fact terminate his contract with the electrical subcontractor.

The Supreme Court affirmed a ruling of the NLRB which held that because the general contractor and subcontractors on a building site were separate businesses, they were to be treated as neutrals with respect to each other's labor controversies. Accordingly, a union having a dispute with one subcontractor cannot picket the other contractors and subcontractors at the job site without engaging in a secondary boycott in violation of Section 8(b)(4)(B) of the Act.

As noted by Secretary Dunlop's testimony before the Senate Labor Subcommittee on July 10, 1975, the basic proposals embodied in S. 1479/H.R. 5900 have had a long history of bipartisan endorsement. Over the past 25 years, four Presidents, all Secretaries of Labor, and many Members of Congress from both parties have supported enactment of similar legislation. (See Secretary Shultz's testimony on April 22, 1969 before the House Committee on Education and Labor for a full account.)

For example, in 1954, President Eisenhower's labor-management relations message recommended clarification of the NLRA, making it specific that concerted action against an employer on a construction project who, with other employers, is engaged in work at the site of the project, will not be treated as a secondary boycott. In fact, Secretary Dunlop stated before that Committee that "In the words of former Secretary of Labor, George P. Shultz, 'I am here today to indicate my support for legislation to legalize common situs picketing, if that legislation is carefully designed to incorporate appropriate and essential safeguards'." It is important to note that the present bill contains the relevant safeguards set forth by Secretary Shultz. Moreover, the common situs picketing portion of this bill contains additional safeguards such as the 10-days notice of intent to picket and authorization by the National or international prior to its local union's picketing and the like.

It is also important to note that under the law as it presently exists, a construction union is permitted to continue picketing at a separate entrance on the job site which is reserved for the exclusive use of the primary contractor or subcontractor (and its business visitors and suppliers) with whom the union has a labor dispute. Only those employers with whom the union has no dispute are now protected from picketing.

It is further noteworthy that union members frequently respect the picket line at a job site even though they do not have to cross it. The practical result is that if the picketing

remains purely "informational" in purpose, an entire job site may now legally be shut down indefinitely due to construction union workers' personal beliefs.

B. The Basic Purpose of the Common Situs Picketing Portion of the Bill

As explained by the Report of the Senate Committee on Labor and Public Welfare (Report No. 94-438 dated October 29, 1975), S. 1479 is a "legislative disavowal" of the Supreme Court's decision in the Denver Building Trades case. The Report states that S. 1479 establishes rights for construction workers which are comparable to those already existing in the industrial sector. The basic purpose of the bill is to treat the general contractor and the subcontractors who are engaged at a construction site as a single person for purposes of the secondary boycott provisions of the National Labor Relations Act.

Thus, under S. 1479, where there is a labor dispute with the general contractor or one subcontractor, lawful economic pressure may be applied to halt the day-to-day operations of the general and all the subcontractors. This approach, according to the proponents, reflects the economic realities in the building and construction industry because the contractor and his subcontractors are engaged in a common venture, and each is performing tasks closely related to the normal operations of all the others. Proponents of the legislation also argue that the Denver Building Trades and related decisions ignore the economic realities of the construction industry. Typically,

they argue, a construction project consists of a general contractor and a number of subcontractors who perform specialized work such as heating, plumbing, and electrical work. On large industrial construction projects, there are a great many subcontractors, and there may be more than one general contractor. Even on simpler jobs (such as residential construction), there are many subcontractors. The proponents, therefore, view a construction site as an integrated project with different crafts performing different functions in an integrated operation similar to the work of a factory. Further, the proponents submit that the contractors and the subcontractors on a construction project are not "neutrals" in the traditional sense since the prime contractor is generally free to choose with whom he will subcontract the specialty work.

Opponents of S. 1479 rebut these "equal treatment" and "single employer - common venture" allegations as follows:

The "Equal Treatment" Contention

Opponents contend that construction unions already receive equal treatment with industrial unions. They enjoy the same legal right to picket a primary employer with whom they have a dispute as do industrial unions. Both types of unions are also currently subject to the same statutory prohibitions against picketing neutral employers.

In fact, the opponents stress that Congress has already given construction unions favored treatment over industrial

unions under the present National Labor Relations Act and other federal laws. For example:

(1) They are expressly exempted from the Act's Section 8(e) ban on "hot cargo" boycott agreements forbidden to industrial unions.

(2) While industrial workers are not required to join a labor organization which has negotiated a compulsory union membership agreement until 30 days after employment, in construction union shops the workers must join within seven days under the Act.

(3) Under Section 8(f) of the Act, construction unions may make "pre-hire" labor agreements with an employer without first determining whether the union represents a majority of the workers. Industrial unions must win a secret ballot election before an employer is required to recognize such a union as the workers' bargaining agent.

The "Single Employer" or "Common Venture" Contention

The contention that all contractors and subcontractors working at a job site are a "single person" or "single employer" engaged in a "common or joint venture" is pure fiction which ignores the realities of the construction industry, according to the opposition. They point out that general contractors and their subcontractors on any given job site are considered separate legal entities under existing federal, state and local laws. This is because they are separately owned; separately

operated; separately insured; and considered separate entities by the Internal Revenue Service for tax purposes. They bid competitively against each other; undergo separate bonding ratings based on their individual capabilities; and incur individual liability. They each operate their own businesses out of separate locations with their own personnel, facilities, tools and equipment, through separate boards of directors, executives, supervisors and employees, under independent management policies, work rules and practices. Their operations comprise separate and distinct bargaining units for separate craft employees under NLRB and court rulings, and they negotiate separate labor contracts with the various construction trades unions. Moreover, they submit that the aforementioned realities are some of the many reasons why the Supreme Court in Denver Building Trades ruled that contractors and subcontractors on a job site are in fact, separate employers who should be shielded from economic "pressures in controversies not their own".

Further, the opposition argues that in circumstances where the facts are not characteristic of the arms length relationship found among unintegrated companies under the realities of commercial organization, the Supreme Court and the NLRB already have established guidelines to determine the "single employer" status of two or more companies under the National Labor Relations Act. In 1965, in Radio Union Local 1264, IBEW v. Broadcast Service of Mobile, Inc., 380 U.S. 255, the Court said:

"The controlling criteria, set out and

> elaborated in Board decisions, are interrelation of operations, common management, centralized control of labor relations and common ownership."

Finally, the opposition contends that under present labor law, construction unions have the same legal right as industrial unions to apply the Supreme Court's Radio Union criteria to any construction job site (whether union, non-union or "mixed") where the unions have reason to believe that there is not a bona fide separate arms length employer relationship among certain individual contractors and/or subcontractors.

C. Predictions as to Economic and Legal Impact of Passage of S. 1479

Proponents' Contentions:

Although it is by no means certain, a practical result of the legislation might be that the contractors and subcontractors on a construction project will be either all union or all non-union. In general, mixing labor policies (union and non-union) on any single job is not conducive to sound labor relations, to cooperation on a job, nor to increased productivity, according to the advocates of this legislation. Rather, mixing labor policies tends more to stimulate disputes between workers operating under different wages and benefits doing the same or similar work, who must necessarily interface with each other for practical purposes. A single, consistent labor policy enhances overall labor relations and, in the long run, results in beneficial gains for the employers and employees, and the general public. However, even attorneys for the AFL-CIO predict that

passage of this legislation will produce, for at least a short period of time, increased union picketing and strikes on construction sites.

Opponents' Contentions:

Opponents of S. 1479 predict that enactment of the bill will:

(1) Grant construction unions economic power and legal rights far beyond those accorded industrial unions in our nation.

(2) Substantially increase construction labor strife, coercion and violence through legal sanction of secondary boycotts against neutral third party contractors and subcontractors which totally shut down construction job sites.

(3) Increase unemployment by polarizing the construction industry into union and non-union segments, thus eliminating jobs for union members working side by side with non-union general and subcontractors, and vice-versa as to non-union workers who currently are performing services on unionized job sites.

(4) Disenfranchise workers who will lose their freedom of choice between union representation and the open shop.

(5) Increase the present construction unions' domination over contractors at the bargaining table, thus causing even more restrictive work rules and "featherbedding" practices as

well as escalating wages which already are among the highest in America.

(6) Create more delays in completion of construction projects due to increased picketing and strikes.

(7) Escalate the cost of both public and private construction by eliminating free competition and competitive bidding between union and non-union contractors which acts as the main stabilizing force in the inflated construction industry.

(8) Foster and encourage irresponsible international union policies and practices by attempting to give them immunity against civil and criminal liability for the activities of their affiliated local unions.

(9) Raise grave constitutional, anti-trust, and other legal issues such as monopolistic combinations in restraint of trade; denial of equal employment opportunities to construction tradesmen, apprentices, and minority contractors; depriving workers of fundamental rights under the National Labor Relations Act to join a labor union or refrain from doing so; granting a private organization civil and criminal immunity from the actions of its local agents; and removing one class of employees (contractors) from equal protection of the law as to "single employer" status.

Part II - The Construction Industry Collective Bargaining Bill

A. Background and Current Status of the Bill

In testimony presented on July 10, 1975, before the Senate

Subcommittee on Labor, Secretary of Labor John T. Dunlop offered the observation that the legal framework of collective bargaining in the construction industry was in need of serious review. In the words of Secretary Dunlop:

> "A vastly enhanced role for national unions and national contractor associations, working as a group, is essential in my view if the whipsawing and distortions of the past are to be avoided and if the problems of collective bargaining structure, productivity and manpower development are to be constructively approached by the industry itself, and in cooperation with governmental agencies." (Senate Report No. 94-439, Oct. 29, 1975, p. 1).

On September 5, 1975, the Secretary of Labor transmitted the proposed "Construction Industry Collective Bargaining Act of 1975" (S. 2305) to the Congress. S. 2305, as amended, has become Title II of the so-called "common situs picketing bill" (S. 1479/ H.R. 5900).

B. The Basic Purpose of the Bill

According to the Report of the Senate Committee on Labor and Public Welfare to accompany S. 2305, this bill "creates a national framework for stabilizing and improving the fragmented and often chaotic conditions of collective bargaining in the construction industry." Since the construction industry is "a major contributor to the nation's economy," the Report continues, "a prolonged decline in construction activity results in serious economic dislocation throughout the economy." The Report further notes that "the construction industry is particularly susceptible to inflationary forces, that "crafts not involved in a labor dispute usually honor a picket line", and that "the unionized sector of the industry [is] particularly vulnerable to work stoppages"

and to "rapidly escalating wage rates".

The Report also observes that "the unemployment rate of [union] workers in contract construction is typically double that of the total civilian work force".

The specific purpose of this "collective bargaining bill" is explained by the Report as follows:

> "The purpose of S. 2305 is to reform the framework of collective bargaining in the construction industry. It is designed to create a labor relations structure which can reflect and effectively promote the national interest in diminishing inflationary wage settlements, unproductive manpower utilization, and prolonged work stoppages. By creating a new tripartite committee composed of labor, management, and public representatives, the bill establishes a forum for the expression of these national interests and provides for the direct participation of national labor organizations and national contractor organizations in local and regional collective bargaining. At the same time, it preserves the flexibility to consider the variations that necessarily exist among localities, crafts and branches of the industry."

Finally, the Senate Report concludes, this legislation "is experimental in nature, and by its terms will expire in five years."

The purpose of the bill, according to the Department of Labor, is to revise the framework of collective bargaining in the construction industry. It provides an enhanced role in negotiations for national labor organizations and national contractor organizations working as a group, while at the same time preserving the flexibility and variations that appropriately exist among localities, crafts, and branches of the

industry. It is intended to bring about a lessening of "whipsawing" and "leap-frogging" negotiations in the highly fragmented construction industry, which result in distortions in appropriate wage and benefit levels.

In conclusion, the proposed legislation seeks to improve dispute settlement, with a minimum of government interference, in the collective bargaining process. It also seeks to use the process of collective bargaining, rather than government regulation, to improve the structure and procedures of collective bargaining.

Opponents appreciate the concern of the Administration, the Senate, and the House of Representatives for the chaotic condition of the construction industry brought about by the awesome power and leverage of the construction trades unions as indeed the Senate Report concedes. But opponents believe that the "package bill" combining legalization of secondary boycott picketing and strikes at construction job sites with granting unprecedented authority in international construction unions to establish and participate in area-wide and even industry-wide collective bargaining while remaining immune from liability for their actions will actually provide a reverse effect. In other words, enactment of this "package bill" will dramatically magnify rather than resolve the problem, according to the opposition.

They also note that under present law, the Federal Mediation & Conciliation Service has expertise and is available to assist

the parties whenever an impasse occurs in negotiations. In addition, the international unions have ample authority under their constitutions to make their presence felt in collective bargaining involving their affiliated labor unions, while at the same time being held legally responsible for their international policies and actions.

In summary, the opponents submit that the "collective bargaining bill", when coupled with the "common situs picketing bill", would only create a greater imbalance at the bargaining table; cloak the international construction unions with even more power to dictate the terms and conditions of local labor contracts in keeping with international union goals and objectives; bring more federal government intervention into free enterprise; restrict non-union competition which stabilizes the industry; increase industrial strife; and add fuel to the inflationary fires in the existing economy.

Opponents conclude that enactment of this misunderstood legislation would indeed be a dangerous "experiment" for our nation.

RBC HAS SEEN

President Ford Committee

1828 L STREET, N.W., SUITE 250, WASHINGTON, D.C. 20036 (202) 457-6400

December 31, 1975

MEMORANDUM FOR: DICK CHENEY

FROM: BO CALLAWAY

Dick:

Please note the current issue of the AGC Newsletter. I think you will enjoy reading the first couple of pages.

Attachment

PFC letter?

AGC NEWSLETTER

• THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA • 1957 E STREET NW • WASHINGTON, D.C. 20006 •

• Second-class postage paid in Washington, D.C. • Subscription rate $5 a year • Published weekly except one week in August and one week in December •

December 23, 1975
Vol. 27, No. 52

Route to: _____

SITUS VETOED!

UPI-127

WASHINGTON (UPI) – PRESIDENT FORD, FOLLOWING STRONG . . . ADVICE, HAS VETOED THE COMMON SITUS PICKETING BILL.

"For many years I have been familiar with the special problems of labor-management relations in the construction industry and sympathetic to all good faith efforts to find an equitable solution (to the industry's problems) that would have the general acceptance of both union and nonunion workers and contractors . . .

President Ford

"Nonetheless, after detailed study of the bill before me (HR 5900), and after extensive consultation with others, I have most reluctantly concluded that I must veto the bill. My reasons for vetoing the bill focus primarily on the vigorous controversy surrounding the measure, and the possibility that this bill could lead to greater, not lesser, conflict in the construction industry . . .

"I have concluded that neither the building industry nor the nation can take the risk that those who claim the bill, which proposes a permanent change in the law, will lead to loss of jobs and work hours for the construction trades, higher costs to the public, and further slowdown in a basic industry are right . . .

"This is not the time for altering our national labor-management relations law if the experiment could lead to more chaotic conditions and a changed balance of power in the collective bargaining process." . . . **President Gerald R. Ford in his veto message on HR 5900**

"President Ford's courageous decision to veto legislation which would have legalized secondary boycotts in the construction industry is another example of his dedication to what is right and his opposition to what is wrong.

President Matich

"This decision, made despite tremendous pressures from organized labor, is in the best interests of the entire nation. I salute him.

"I have written the President extending my congratulations on his action and have urged every member of AGC to do likewise." . . . **AGC President John N. Matich**

"I sincerely hope that this unhappy subject is now laid to rest for all time, and that construction management and labor can now move forward to do those things which need to be done and which we can do working together.


Mr. Sprouse

"I congratulate President Ford for his courageous, proper decision. It was an eminently correct one.

"The publicity generated over this legislation was tremendous, and has served to unify construction management more than ever before. We are indebted to all those national associations, their members, private industry, to those 'on the Hill' who supported our position, and to the press which joined to defeat this harmful legislation." . . . **AGC Executive Vice President James M. Sprouse**


Secretary Dunlop

"The President's decision to veto HR 5900 comes as no great surprise, for the pressures upon him to do so were substantial. I am naturally disappointed, for I maintain my conviction that on its merit, the enactment of this legislation could have done much to stabilize this nation's construction industry." . . . **Secretary of Labor John T. Dunlop**

We extend our thanks and appreciation to all AGC chapters and members for their tremendous response to our many requests for support in this fight. The association has never functioned more efficiently.

"As I said in my reaction statement to the nation's press, I have written President Ford congratulating him on his action, and have urged each member of AGC to do likewise. I would like to reiterate my urging . . . please write the White House and thank the President. His decision was not easy; let him know that management appreciates his courageous stand." . . . **John N. Matich**

FORD ALSO "NIXES" LABOR-HEW APPROPRIATIONS MEASURE: President Ford, shortly before his veto of HR 5900, vetoed the $45 billion appropriations bill for the Departments of Labor, and Health, Education and Welfare (see last week's AGC Newsletter for specifics of bill). The President termed the measure, which totaled about $1 billion more than he had requested for the two departments, a "classic example of unchecked (federal) spending."

HOUSE PASSES HIGHWAY BILL; 1977 APPORTIONMENT RESOLUTION: The House late last week passed its version of the *Federal-Aid Highway Act of 1975* by an overwhelming 410-7 margin. The Senate passed a somewhat different highway proposal a week earlier. Conferees from both bodies will meet when Congress returns from its Christmas recess to mold a compromise measure.

Both bodies have also passed resolutions allowing for immediate apportionment of interstate highway funds for fiscal year 1977. That action should ensure that there will be continuity in the interstate construction program. For details on the House-passed highway bill, and for state-by-state estimates of the fiscal '77 apportionments, contact your chapter manager or the AGC national office. (Details to chapters, December 19.)

IF YOU'RE INTERESTED IN TRAINEE PROGRAMS you will surely want to read the *Labor Standards for Trainee Programs on Federal and Federally Assisted Construction* recently proposed by the Department of Labor. A copy of those proposed regulations and an analysis of the comments on them made to DOL by AGC have been sent to your chapter.

The trainee standards will be discussed by the Federal Committee on Apprenticeship during its January 22-23 meeting in Washington. You will be able to comment orally on the new regulations at that meeting if you wish. Contact your chapter manager or the national office for further details.

1976 CONVENTION OPTIONAL SIGHTSEEING TOURS

In order to make your visit to Washington, D.C. more rewarding and enjoyable, Washington Whirl-Around Tours has been engaged. We recommend that you use the attached coupon to make your tour reservations and that you do so soon as space is limited.

Friday, March 5 (9:00 AM—1:00 PM)
Tour A — City Tour

A comprehensive introduction to our nation's capital, including all major attractions — Capitol Hill, House and Senate Buildings, museums, galleries, White House, Kennedy Center, the now famous Watergate complex and, of course, the Lincoln, Jefferson and Iwo Jima Memorials.

We will also see several of Washington's famous churches, such as the National Cathedral, the Shrine of the Immaculate Conception, and the magnificent Mormon Temple.

Please note that this is a driving tour — stops will not be made at all attractions.

$7.50 per person

Saturday, March 6 (9:00 AM—12:00 Noon)
Tour B — Capitol Tour

Leave Washington Hilton Hotel by chartered bus for the Capitol — the historic building that is the heart of our Nation's government.

Washington Whirl-Around staff will conduct small groups through "nooks and crannies" of the Capitol too often missed by the visitor. We will also see the Great Rotunda, Statuary Hall, and the House and Senate chambers.

$8.00 per person

Saturday (1:00 PM—4:30 PM)
Tour C — American Art — 1776 to 1976

A chartered bus will provide transportation to the Corcoran Gallery of Art where members of the Education Department will conduct a tour of the American Collection, which presents a comprehensive survey of American painting from colonial times through the 19th century.

Following the Corcoran, our American Art Tour will continue with a special tour of the Hirshhorn Museum and Sculpture Garden, the newest gallery on the Mall. The Hirshhorn Collection features 20th century paintings and sculptures displayed in historical sequence. It includes works by Rodin, Henry Moore, Picasso and Giacometti.

$8.00 per person

Sunday, March 7 (8:30 AM—11:30 AM)
Tour D — Arlington National Cemetery

Leave Washington Hilton Hotel by chartered bus for a visit to Arlington National Cemetery. At the Visitors Center we will board a Tourmobile for a lectured tour through the cemetery grounds. Stops will be made at the Tomb of the Unknown Soldier, the Kennedy gravesites with the Eternal Flame, and the Custis-Lee Mansion, now known as Arlington House.

$6.00 per person

Monday, March 8 (9:30 AM—1:00 PM)
Tour E — Embassies & Historic Homes

A riding tour of "Embassy Row", Washington's famed Massachusetts Avenue, where many foreign nations have their Embassies, is planned. We will visit one or two of these handsome embassies for a glimpse into the lifestyle of other nations. We will also visit Anderson House, one of the palatial residences in the city. Lars Anderson, former United States Ambassador to Japan, built the house between 1902 and 1905. It contains many magnificent Oriental objects, as well as silver, paintings and antique furniture. We will also stop at the Woodrow Wilson House, the red brick Georgian style house which reflects the mode of Wilson's last years.

$9.00 per person

Monday (1:00 PM—4:00 PM)
Tour F — Georgetown

A riding tour of historic Georgetown, which flourished by the late 1700's when Washington was only a city on paper, will start this tour. Georgetown retains a distinctive charm and air of individuality which sets it apart from other residential sections of the city. We will visit Dumbarton Oaks, whose gardens rank among the most beautiful in the country, with 16 acres of fountains, pebble gardens and pools.

$8.00 per person

Tuesday, March 9 (9:30 AM—11:00 AM)
Tour G — National Cathedral

Leave Washington Hilton Hotel by chartered bus for a visit to the National Cathedral of Saint Peter and Saint Paul which towers over the Northwest section of Washington. The Cathedral creates in 20th century Washington a religious structure based on 14th century French and English Gothic style. A member of the Women's Committee of the Cathedral will conduct our tour of this magnificent Cathedral.

$5.00 per person

Tuesday, (1:30 PM—4:30 PM)
Tour H — Capitol Tour

A repeat of Saturday morning's tour for those who missed it.

$8.00 per person

Tour or Tours: A B C D E F G H
(please circle)

Please mail to:

Tours
Washington Whirl-Around
2262 Hall Place, N.W.
Washington, D.C. 20007

Number of Tickets Needed for:

A ____ D ____ G ____
B ____ E ____ H ____
C ____ F ____

Amount of Check $____

Name ____

Company ____

Address ____

City & State ____ Zip ____

BUILDING AMERICA IN THE SPIRIT OF '76

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

NATIONAL OPEN SHOP CONFERENCE SLATED FOR ATLANTA: AGC will hold its first national open shop conference in Atlanta on February 5. The program will feature discussions of subjects of special importance to open shop contractors—new developments in the fields of the Taft-Hartley and Davis-Bacon Acts; open shop manpower and training; fringe benefits. Participants in the conference will include leading open shop contractors and attorneys, and public officials. Registration fee for the one-day conference is $50. Reserve your place early! (Details to chapters, December 18.)

MINIMUM WAGE RATE TO JUMP ON JANUARY 1: The minimum wage rate for all workers in jobs covered under the *Fair Labor Standards Act* will increase 20 cents an hour, to $2.30, on January 1.

NEW MAN AT OPERATING ENGINEERS' CONTROLS: Effective January 1, J. C. Turner, presently secretary-treasurer of the 417,000-member International Union of Operating Engineers, will assume the presidency of that union. He will succeed 75-year-old Hunter P. Wharton, who is retiring for health reasons.

WALKAROUND PAY NOT REQUIRED, COURT OF APPEALS RULES: A District of Columbia Court of Appeals has ruled that time spent by an employee accompanying an OSHA compliance officer on his walkaround inspection of a jobsite does not constitute "working time" under the *Fair Labor Standards Act*, and thus does not require compensation. In that ruling, involving the Mobile Oil Corporation, the court reasoned that time spent by an employee during such a safety inspection is analogous to the traditional noncompensatory time spent by an employee testifying at a National Labor Relations Board hearing.

HOW DOES YOUR COLLECTIVE BARGAINING AGREEMENT STACK UP AGAINST OTHERS? A new booklet by the Bureau of Labor Statistics entitled *Contract Clauses in Construction Agreements* can tell you. The analysis of 796 agreements in America's largest cities looks at such bargaining matters as:

- management rights
- fringe benefits
- apprenticeship and training provisions
- hours, overtime and premium pay
- seasonality
- dispute settlement procedures

Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D. C. 20402 or from your BLS regional office. Cost per copy: $1.40. Ask for Bulletin 1864, Stock Number 029-001-01779-1.

HOW MUCH CM IS BEING DONE IN YOUR STATE? On what types of work is it being done? Those are two of the questions that you can find the answer to by studying the results of a recent AGC survey of its chapters on construction management. For a compilation, write your chapter manager or the AGC national office. (Details to chapters, December 9.)

NEXT WEEK IN NATIONAL AGC

January 1-2 – AGC national office closed for New Year.

January 4 – AGC Ethics Committee Meeting.

January 4 – AGC Officers Meeting.

January 5-7 – AGC Executive Committee Meeting.

January 8 – AGC Education and Research Foundation Meeting.

January 9-10 – AGC Long Range Planning Committee Meeting.

All of the meetings listed above will take place at Marco Island, Florida.

THE AGC NEWSLETTER TAKES A HOLIDAY: No AGC Newsletter will be published next week. The next issue will be dated January 7, 1976. Merry Christmas; Happy New Year.

AGC CAN PROVIDE YOU WITH THE BICENTENNIAL SUPPLIES YOU WILL NEED!

The dawn of the Bicentennial year is drawing near. Now is the time to stock up on the Bicentennial supplies you will need throughout 1976. AGC can help!

NEW AGC BICENTENNIAL EMBLEM

The "superstar" of AGC's Bicentennial supply department is the association's new stick-on emblem. The emblem comes in a range of sizes that makes it suitable for any use anywhere—from letterheads to trucksides.

#54 6" Bicentennial emblem.$5 for 10.

#55 1½" x 1¼" Bicentennial emblem.$1.25 for 50.

#56 12" Bicentennial emblem. $15 for 10.

"BUILDING AMERICA" FLAG PINS

Lapel-size flag pins which proudly proclaim that AGC members are, indeed, "Building America" are still available. You have a story to tell, the construction story; tell it to the public through this low cost PR aid. Cost: 40¢ each.

FLAGS FLOWN OVER THE U.S. CAPITOL

The ever-popular 5' x 8' American flags which have been flown over the U.S. Capitol are again in stock at the national office. The flags are suitable not only for your own use, but also for use as a "give away" at project dedication ceremonies. The supply of this often sold out item is limited, so order yours today! Cost: $15.

AGC's BICENTENNIAL CALENDAR

AGC's Bicentennial calendar is a fact-packed yet still fun-filled, week-by-week desk appointment book. The calendar uses words and graphics to portray the role of the construction industry in building America over the past 200 years. The calendar makes an impressive and unique gift for employees, customers, elected and appointed government officials and friends. Cost: $5 each.

Standard AGC quantity discounts apply **on all Bicentennial items:** 10% on items ordered in quantities of 12 or more; 20% on 100 or more; an additional 5% if payment accompanies order.

ORDER FORM

Please rush the following Bicentennial supplies to me.

_____ #54 @ $5 _____
_____ #55 @ $1.25 _____
_____ #56 @ $15 _____
_____ Calendars @ $5 _____
_____ Flag pins @ 40¢ _____
_____ Capitol flags @ $15 _____

Total quantity discounts _____
Total cash discount _____
Total payment _____

Please send to:

Name _____
Address _____
City _____
State _____ Zip _____

Please mail order form to: AGC Bicentennial Supply Department, 1957 E Street, N.W., Washington, D.C. 20006