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THE COMMON SITUS PICKETING ISSUE: BACKGROUND AND ACTIVITY IN THE 94TH CONGRESS

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Introduction:

Since shortly after enactment of the Taft-Hartley amendments to the National Labor Relations Act (NLRA) in 1947, the situs picketing in construction issue has been debated in the courts and in the Congress. The common situs issue is based on the fact that, in construction, unlike most other industries, a number of employers (acting as contractors or subcontractors) are involved in the work in progress at a particular construction site. Thus, the craft employees and laborers of one such emoployer when involved in a labor relations dispute, could seriously affect the operations of one or more of the other "neutral" employers at the site.

In 1947, the Taft-Hartley amendments to the NLRA outlawed secondary boycotts--activity on the part of unions which negatively affects third party neutrals. Thus, the question arose: Are other than primary employers at a construction site really neutral third parties when a single employer at the site is involved in a labor dispute with his employees? And, if not, can a striking employer's workforce picket the whole site and thereby affect some or all of the other employers and their employees at the same site?

These questions were presented to the courts in the 1950's. A crucial decision was rendered by the U.S. Supreme Court in the Denver Building Trades case in which the court ruled that picketing of a whole common site was, indeed, a violation of the secondary boycott provisions of Taft-Hartley.

Other decisions of the courts modified the ruling for certain unique circumstances but, basically, common situs picketing of a whole construction site by a union was essentially outlawed.

Since the Denver decision, Congress has been faced with legislative proposals to enact into law amendments to Taft-Hartley which would overrule the decision of the Court and make common situs picketing legal. Prior to 1975, the high water mark for such legislation came in 1965 and in 1967 when legislation to authorize situs picketing was reported from the House Committee on Education and Labor. In neither case did the bill reach the Floor.

While other attempts to consider the issue were made, it wasn't until the 94th Congress that a bill legalizing situs picketing and establishing reforms in the collective bargaining process in the construction industry cleared both Houses and was sent to the President for action. On January 2, 1976, President Ford vetoed the legislation (H.R. 5900) and the issue was again returned to the Congress.

This report presents background on the common situs picketing issue and summarizes the judicial and legislative activity up to the time of President Ford's veto of H.R. 5900 early in 1976.

Background:

The legal status of picketing by building trades unions at the site of a construction project has long been a subject of controversy in the labor-management relations field. The issues are complex. First, there is the practical matter of maintaining a balance of power, both organizationally and in the collective bargaining context, between the several trade union and managerial units involved at a particular worksite. Second, there is the question of what constitutes "management" and what constitutes a "worksite" and just how far these concepts can be bent or extended in any given case, the question of "neutral" third parties thus being raised. Finally, there are diverse matters of public policy to be considered.

A major factor in the controversy is the rather unique characteristic of a construction project where employees from a number of different firms, the general contractor and a series of subcontractors, are working at the same site. Thus, one finds, potentially, several unions and several managerial units operating under different individual labor-management agreements (if organized), inter-related through their collective involvement with a single production item: the structure under construction. This can be contrasted to operations at a typical industrial plant where, normally, all of the employees working on the site are employees of a single firm. Thus, construction workers and industrial workers find themselves working within different contexts, treated differently under the law. From this situation arises the demand for "equal treatment" for workers in manufacturing and in the building trades.

In construction, with many different employers involved, it may well be that some of the subcontracting firms will be working under a union contract while others will operate on an "open shop" basis. This may lead to a union effort to organize the non-union employees and to put pressure on the union employers to cease doing business with the non-union firm or firms. Such union pressure raises the question of a "secondary boycott." A secondary boycott should be distinguished from a "primary boycott," which is a combination to exert pressure on an employer by refusing to deal with the employer himself. While primary boycotts are legal under most circumstances, secondary boycotts have long been restricted, limited, and even prohibited outright because of their impact on neutral third parties.

In an ordinary secondary boycott, a neutral third party is affected as a result of an underlying labor dispute between a primary employer and the union representing his employees. In order to exert economic pressure against a primary employer, a union may well resort to a secondary pressure against other employers and employees doing business on the site or against those supplying or otherwise dealing with the primary employer. Such economic pressure could take the form of picket lines at the establishments of suppliers or customers, a total closing of the worksite to all subcontractors whether or not a party to the initial dispute, or the picketing of other sites operated by the primary employer or by those other contractors associated with the primary employer at the primary construction site.

A basic criticism of secondary boycotts is that they involve a neutral employer and neutral employees in a labor-management dispute that is not of

their own making, which may not be of immediate benefit to them and which is beyond their power to remedy. While the primary employer has the power to end the economic pressure by giving in to the union's demands, the secondary employer (with his employees) has no such choice. His only alternatives are to resist the union's demands or to cease dealing with the primary employer. Either course is likely to cause him economic harm and may leave his employees faced with a work stoppage.

A question, however, must be asked: How truly neutral is a subcontractor on a construction project, working in association with other subcontractors on a single product and under the umbrella of a general contractor?

When, in 1946-47, Congress was considering labor management relations legislation that culminated in the Taft-Hartley Law, the question of secondary boycotts was an important consideration. The resulting law made it clear that secondary boycotts were to be outlawed. The secondary boycott provision of the 1947 Act (section 8(b)(4)(A)), renumbered in 1959 as section 8(b)(4)(B), was framed in terms of prohibited conduct and prohibited objectives. The Act prohibits union conduct which induces employees to engage in strikes or concerted refusals to work where the objective is to force an employer to cease doing business with any other person. The Act, however, is phrased in general terms and does not make clear the distinction between prohibited secondary activity and protected primary activity. It has been necessary for the National Labor Relations Board (NLRB) and for the courts to spell out the differences on a case by case basis over the years.

The importance of the issue facing the NLRB in applying the secondary boycott prohibitions to construction sites can be stated essentially as follows: if picketing is permitted against the primary employer, then it is likely that employees of the secondary employer will refuse to cross the line; but if picketing is not permitted, the union may be denied its right under the Act to engage in concerted activities for the purpose of collective bargaining and mutual aid. Quite possibly, a general contractor employing union labor may seek to cut costs overall by subcontracting to non-union employers. In a secondary boycott, pressure is exerted both against the primary employer (directly a party to the dispute) and against the secondary employers and employees who are, depending upon one's definition, "neutral."

Two cases have set the basic policy for the National Labor Relations Board, Moore Dry Dock, and Denver Building Trades. In the 1950 Moore Dry Dock case (92 NLRB 547), the NLRB set forth certain requirements which have to be met before any union picketing at a construction site can be considered permissible under the law:

(1) The picketing must be limited to times when the struck or "primary" employer's employees are present at the common site.

(2) The picketing must be limited to places "reasonably close" to the operations of the employees of the primary employer.

(3) The pickets must show clearly (in their literature and on their placards) that their dispute is with the primary employer alone.

(4) The employees of the employer must be engaged in the employer's normal business at the common site.

At large, it appears to have been the intent of the Board, in setting these requirements, to minimize impact upon neutral employers and employees without infringing upon the legitimate rights of aggrieved primary employees.

The Denver Building Trades case (82 NLRB 1195) was actually decided by the Board before Moore Drydock but was appealed to the U.S. Supreme Court whose decision did not come down until 1951 (341 U.S. 674). In the Denver case, a general contractor with a unionized workforce engaged a subcontractor who employed non-union electricians at the jobsite. The building trades council (labor union) objected to the use of non-union workmen on the site. When the subcontractor refused to leave the job, the council placed a picket line on the site. In response to this "signal," the union members in the general contractor's workforce walked out. After two weeks of picketing, the general contractor terminated the subcontractor's contract. The subcontractor thereupon filed an unfair labor practice complaint with the NLRB.

When the case reached the Supreme Court, the Council argued that it had engaged in a primary dispute with the general contractor alone, and had simply tried to force him to make the project an all-union job. The Court rejected this contention and ruled that the existence of the subcontract presented a materially different situation. In the Court's view, the only way in which the Council could have attained its objective was to force the general contractor to terminate the subcontract. This constituted a prohibited object under the Act, since the Council's purpose was that of "forcing or requiring... any employer...to cease doing business with any other person;...." (341 U.S. at 685-91)

The Denver Building Trades decision has remained the guiding decision for NLRB policy. This decision, together with the rules set forth in the Moore Dry Dock case, allegedly has reduced the effectiveness of building trades unions in organizing non-union subcontractors. From the union viewpoint, these two decisions have, in effect, set forth quite different requirements limiting picketing at construction sites in ways that need not apply to picketing at industrial sites. Further, even informational or consumer picketing, addressed to the public, is said to be difficult for the building trades unions for, the courts have ruled, it must be directed toward a primary component part (plumbing, electrical work, etc.) and must not be directed at the entire product, a house or another item of construction. In practice, the courts and the Board have exercised rather wide latitude in defining just which practices are legal and proper and which are not, depending upon specific circumstance and upon the particular orientation of the adjudicating officer; and, some critics suggest, this has led to undue confusion and an unnecessary volume of litigation.

Over the years, several proposals have been made in Congress to amend the National Labor Relations Act to permit union picketing at an entire construction site--essentially, to overturn the NLRB's decision in the Denver case. In 1949, President Truman proposed such legislation and, in later years, similar proposals were endorsed by Presidents Eisenhower, Kennedy and Johnson. These proposals have varied little over the years. Generally, they would permit picketing or strikes (which are otherwise legal) by a building trades union at an entire construction site where several employers are engaged

in a joint venture, even though the labor dispute is with a single employer (or subcontractor). In effect, these projected amendments would "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," a reaction to the refusal of the Supreme Court "to acknowledge the economic unity of contractors and subcontractors at a construction site." The proposals would amend Section 8(b)(4)(B) of the NLRA by eliminating construction site picketing, where the means used and the objectives sought are lawful, from the definition of a secondary boycott. 1/

Congressional hearings have been held on this subject area on numerous occasions during the past 24 years. Several times this legislation has won approval in committee but, until the 94th Congress, none of these bills under study secured the approval either of the House or of the Senate.

The 94th Congress:

During the spring of 1975, H.R. 5900, titled a bill "to protect the economic rights of labor in the building and construction industry by providing for equal treatment to craft and industrial workers," was introduced in the House by Congressman Frank Thompson (D-NJ). Identical legislation was introduced in the Senate (S. 1479) by Senator Harrison Williams (D-NJ). The legislation was in direct response to the Denver Building Trades decision.

1/ U.S. Senate, 94th Cong., 1st Session, Report No. 94-438, "Equal Treatment of Craft and Industrial Workers," issued by Committee on Labor and Public Welfare, Oct. 29, 1975, pp. 16-20.

The operative section of the bills reads as follows:

> nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed by any person to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such a site, 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 other 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: ... 2/

The bills also include a special provision prohibiting picketing for the purpose of excluding an employee because of race, creed, color, or national origin. Another provision applying to construction sites at military and space installations requires that a 10-day written notice of intent to strike be given to appropriate mediation and conciliation services and also to the national or international organization of which the union is an affiliate. This is in addition to the notice requirement of the NLRA and is designed to reduce and to minimize the danger of strikes at defense installations vital to the national security.

2/ U.S. House of Representatives, 94th Cong., 1st Session, Hearings before the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, on H.R. 5900, June 5, 10, 11, and 12, 1975, p. 2.

The Subcommittee on Labor Management Relations of the House Education and Labor Committee began hearings on June 5, 1975, and reported the measure on July 10. A House staff analysis noted the purpose of the bill to be: "... to restore to unions in the building and construction industry their pre-Taft-Hartley rights to peacefully publicize by picketing the fact that an employer subcontracts part of the job to a "non-union" subcontractor who might well have won the "bid" for the subcontract because he pays less than the union scale." 3/ Secretary of Labor John T. Dunlop, who had testified extensively before the Subcommittee concerning the measure, added his official endorsement to the legislation. It was generally stated by Republican leaders supportive of the bill that the President would sign the measure if companion legislation to restructure collective bargaining in the construction industry (essentially, proposals presented by Secretary Dunlop) were transmitted to him at the same time.

House debate commenced on July 24th in an emotion charged atmosphere. Andrew Biemiller, legislation representative for the AFL-CIO, was quoted as saying the purpose of the bill was "to see every job in America a union job." 4/ Meanwhile, the Republican Policy Committee (July 22nd) announced its opposition to H.R. 5900 and, noting the extent of campaign contributions from organized labor, charged that the measure was "already bought and paid for." 5/

3/ Ibid, p. 3.
4/ Congressional Quarterly, Aug. 2, 1975, p. 1695.
5/ Congressional Quarterly, July 26, 1975, p. 1612.

Following a series of clarifying amendments on the Floor, the House approved the bill by a vote of 230 to 178 and forwarded it to the Senate.

On September 10, Congressman Thompson and Congressman Albert Quie (Republican of Minnesota and Ranking Minority Member of the Committee) jointly introduced H.R. 9500, the "Construction Industry Collective Bargaining Act of 1975," a measure designed to meet the requirements imposed by President Ford as a condition for approval of H.R. 5900. Again, Secretary Dunlop testified in behalf of the legislation, urging the House Committee on Education and Labor to "give favorable consideration" to the measure and, concluding: "There will not be a better time to provide the means peacefully and productively to improve the processes of collective bargaining with the full support, participation, and involvement of labor and management." 6/

Behind the proposed collective bargaining reforms for the building trades and construction industry was the realization of the importance of this segment of the economy. In 1974, some 3.5 million men and women were employed in the industry, approximately 2.5 million of these workers being members of unions affiliated with the AFL-CIO. Most of these workers are confined to an individual craft or to groups of related crafts. There are 17 construction unions affiliated with the Building and Construction Trades Department, AFL-CIO, in addition

6/ U.S. House of Representatives, 94th Cong., 1st Session, Hearings before the Committee on Education of Labor, on H.R. 9486 and H.R. 9500, September 10 and 11, 1975, p. 11.

to the International Brotherhood of Teamsters (outside the AFL-CIO) which also plays a major role in the construction industry. The scattered character of the industry and the craft character of the building trades unions have led to a considerable fragmentation of bargaining. For the most part, such negotiations are carried on only by the local unions themselves (about 10,000 in number), the international unions having only a limited involvement. The result of this fragmentation of bargaining has been frequent work stoppages, escalating wage rates, some confusion in the calculation of benefits and a certain industry instability.

One of those most knowledgeably concerned about collective bargaining problems in the building trades was Harvard Professor John T. Dunlop, Secretary of Labor throughout the consideration of situs picketing legislation in the 94th Congress. Dunlop's involvement in the field was long and intense, including service on a variety of boards having jurisdiction over labor-management questions, as chairman of the Construction Industry Stabilization Committee and as Executive Director of the Cost of Living Council. He had written extensively on labor relations questions and was widely respected both by labor and by management.

In the late 1960's, the Federal Government became more directly involved with construction industry bargaining. On September 22, 1969, the President, by Executive Order 11482, established the Construction Industry Collective Bargaining Commission to study the problems of labor-management relations in the industry and to attempt to develop voluntary tripartite procedures in settling disputes. Six months later, building on the work of this commission,

the President (March 29, 1971) established the Construction Industry Stabilization Committee by Executive Order 11588 under the authority of the Economic Stabilization Act of 1970. The Committee, composed of 4 representatives each of the major unions, employer associations, and of the general public, had jurisdiction over bargaining agreements in the construction industry with authority to approve or to deny all wage and benefit increases. Later, in August 1971, wage stabilization was imposed on the entire economy but, throughout the stabilization period, authority over construction wages remained solely in the Construction Industry Stabilization Committee. Despite a successful and useful existence, the Committee lost its authority when general wage stabilization came to an end in April of 1974. Subsequently, construction industry bargaining swung back to previous arrangements with a tendency to increased strikes and higher wage settlements. On April 1, 1975, by Executive Order 11849, the President created another mixed body, the Collective Bargaining Committee in Construction, designed to achieve through largely voluntary means a review of labor-management conditions in the industry and to explore possible policy directions. This latter Committee, however, lacked the institutional mechanism through which to achieve its objectives and, thus, Secretary Dunlop turned to new legislative initiatives and H.R. 9500 was drafted.

H.R. 9500 called for the creation of a "Construction Industry Collective Bargaining Committee." Local unions with national trade union ties and contractors, having entered into collective bargaining agreements with such unions, would be expected to notify the Committee sixty days prior to termination of an agreement in order that the Committee might, at its option, attempt to

reach a settlement and, thus, avoid a strike or other disruption. As provided in the bill, national and international unions would be drawn more effectively into the local industrial relations picture. In general, its advocates affirmed, the measure provided a framework for orderly bargaining within the construction industry. Labor strongly supported both H.R. 5900 and H.R. 9500. The latter measure was generally regarded to be the creation of Secretary Dunlop, supported by President Ford. Although there was opposition from contractors, the meaure was approved by the full Committee and ordered reported on September 24th. The vote in committee was 34 to 1, only Congressman John Ashbrook (R-Ohio) dissenting. On October 7, the bill was approved by a House vote of 302 to 95.

Meanwhile, the Senate had been conducting hearings on S. 1479 and S. 2305 (respectively, counterparts of H.R. 5900 and H.R. 9500). During the Senate's Floor debate on H.R. 5900, the several bills were merged, thus combining the common situs picketing bill with the measure restructuring bargaining within the construction industry. On November 19, 1975, the Senate approved the combined measure by a vote of 52 to 45. On December 11 and December 15, respectively, the House and the Senate agreed to the Conference reports and the bill was sent to President Ford.

Throughout the fall of 1975, industry opposition to these proposals had been growing. The Associated General Contractors of America, the National Association of Manufacturers and the U.S. Chamber of Commerce had launched an intensive lobbying campaign against the legislation. So had the National Committee for the Right-to-Work, charging that congressional support for the

measure was a capitulation to organized labor and would result in compulsory unionism, inflation and unemployment within an already battered industry.

On January 2, 1976, despite prior indication that he would approve the two (now combined) bills, President Ford vetoed H.R. 5900. In his veto message to the Congress, the President explained:

> "I am returning without my approval H.R. 5900, commonly known as the Common Situs Picketing Bill.
>
> "The bill before me represents a combination of H.R. 5900, which would overturn the United States Supreme Court's decision in the Denver Building Trades case and the newly proposed Construction Industry Collective Bargaining Bill, S. 2305, as amended. During the development of this legislation, I stipulated that these two related measures should be considered together. The collective bargaining provisions have great merit. It is to the common situs picketing title that I address my objections.
>
> "I had hoped that this bill would provide a resolution for the special problems of labor-management relations in the construction industry and would have the support of all parties. My earlier optimism in this regard was unfounded. My reasons for this veto 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.
>
> "There are intense differences between union and nonunion contractors and labor over the extent to which this bill constitutes a fair and equitable solution to a long-standing issue. I have concluded that neither the building industry nor the Nation can take the risk that the bill, which proposed a permanent change in the law, will lead to loss of jobs and work hours for the construction trades, higher costs for the public, and further slowdown in a basic industry. 7/
>
> /s/ Gerald R. Ford
>
> "The White House,
> "January 2, 1976.

7/ Congressional Quarterly, January 10, 1976, p. 60.

The Aftermath:

Under date of April 1, 1975, President Ford, by executive order, had created the Collective Bargaining Committee in Construction. The Committee, composed of ten representatives of labor and ten representatives of management, all designated by the President, together with Secretary Dunlop (as chairman) and W.J. Usery, Director of the Federal Mediation and Conciliation Service, was charged with facilitating the collective bargaining process in the construction industry. Specifically, President Ford directed: "... the Committee shall give consideration to long term developments in the construction industry under collective bargaining agreements and shall seek to develop appropriate policies in the national interest." Under that mandate, it had assisted in the development of H.R. 5900 as amended and presented to President Ford.

Five days after President Ford's veto of the situs picketing measure, the labor members of the Collective Bargaining Committee in Construction resigned in block. Robert Georgine, president of the AFL-CIO Building and Construction Trades Department, charged: (in part)

> "When the means to effect the cures to many collective bargaining difficulties recognized by all parties finally was at hand, the contractors abdicated their responsibility to determine policy in the construction industry to the National Right-To-Work Committee, the the National Association of Manufacturers, the Round Table and the United States Chamber of Commerce.
>
> "This was H.R. 5900, the administration-supported collective bargaining and equal treatment legislation, which was vetoed by President Ford. He caved in under pernicious political pressure, and even worse, went back on his word. Incredible as it now seems,

> Title 2 of the bill he vetoed was drafted and introduced by the Ford Administration itself, with the President's publicly announced support." 8/

On January 13, 1976, John Dunlop announced his resignation as Secretary of Labor. As it became clear that the President would veto H.R. 5900, Secretary Dunlop had met with a wide range of people from labor and management. In a formal statement, following his resignation, he noted: "It is my sober conclusion from these discussions that attitudes have been significantly affected and that the requisite communication, confidence and trust, is no longer possible, at least with me in the post of Secretary of Labor. Accordingly, I have submitted my resignation." 9/

Situs picketing legislation remains a high priority for organized labor. It continues to have the opposition of conservative groups. Doubtless, the issue will surface again in the 95th and/or later Congresses.

Arguments, Pro and Con:

The following are the major arguments, for and against situs picketing legislation, stated in the manner in which the positions are most often expressed by their respective advocates.

Pro

1. The Denver decision should be reversed by congressional action. By failing to recognize the realities of collective bargaining in the construction industry, it has, in effect, outlawed almost all onsite picketing,

8/ Daily Labor Report, January 8, 1976, p. AA-3.
9/ Daily Labor Report, January 14, 1976, p. A-12.

both secondary and primary. The decision must be considered faulty because it was based on the insufficient premise that the contractors on construction sites are separate employers. Legally this may be true, but even cursory examination of the interrelationship between contractor and subcontractors shows that their operations are closely interrelated. Any contractor, before he bids on a construction job, must carefully plan the cost and type of labor that subcontractors will supply for the various tasks usually performed by them. Therefore, subcontractors in the construction industry are not unconcerned third parties.

2. Experience has shown that the normal union representation elections cannot be held in the construction industry because of the normally short duration of employment. The only effective means available through which the unions in the construction industry may organize employees and protect union standards is to picket an entire job site. The Denver Building Trades case has denied unions in the construction industry this elementary protection.

3. The bill would simply give the building and construction trades unions the picketing rights accorded to unions in other industries. Unions in other industries are permitted to exert concerted economic pressure at the employer's premises against other persons or employers who are performing tasks that are related to the primary employer's normal course of business, and are permitted to exert pressure on employers who have allied themselves with the primary employers and thereby surrendered their claim to neutrality.

4. The bill would permit picketing only where the methods and objectives are otherwise lawful. The bill expressly provides that the labor dispute

must not be unlawful, and must not be in violation of any existing collective bargaining agreement. Thus the bill will not protect violence on the picket line, since that is prohibited by State and local laws in all parts of the United States, and will not permit sudden or "wildcat" strikes in violation of a no-strike clause in an existing collective bargaining agreement.

Con

1. The major contribution of the 1947 Taft-Hartley Act was to limit some of the coercive powers of unions. Section 8(b)(4) restricted the power of unions to engage in secondary boycotts. The NLRB and the Courts have interpreted this provision in light of Section 7, which encourages collective bargaining, and Section 13, which permits the unions to engage in strikes. The criteria for permissive picketing were laid down in the Moore Dry Dock case. Construction unions should not be entitled to special privileges going beyond the above criteria. There is no justification for exempting one of America's great industries involving millions of employees from reasonable restriction upon picketing and engaging in secondary boycotts.

2. The protection of 8(b)(4)(B) does not extend to "allies" of the primary employer. Nor does the Act, in the words of Senator Robert A. Taft, "apply to a case where a third party is, in effect, in cahoots with or acting as a part of the secondary employer." (93 Cong. Rec. 8709 daily ed.) But the several contractors and subcontractors engaged in a construction project are clearly not "allies" within the meaning of this interpretation. The relationship of subcontractors to contractors is that of independent producers or

entrepreneurs, comparable in many respects to suppliers and major producers in any industry. It is, therefore, only fair that employers in the construction industry should have the same protection from coercive union activities as is extended by the law to employers in other branches of American industry.

3. The bill would give unions in the construction industry what amounts to an effective control on all the labor that is being done on a site. By picketing the site a union could force the employer to deal only with union contractors or subcontractors and prevent the non-union employers from securing any work. Legalizing picketing on construction sites would further increase the considerable power of the building trades union in the industry. It is commonly recognized that the unreasonable work restrictions imposed by some of the construction unions have impeded productivity in that industry and contributed significantly to the high cost of housing in the United States.

Granting the building trades unions an exemption from the ban against secondary boycotts would be a windfall for organized labor and would ensure that minor disputes would become major ones in an industry that is already reeling from recession and excessive costs.

4. Despite their claims, construction unions already have equal rights to picket primary employers, even on work sites with multiple employers present. The employees of subcontractor "A" can picket their employer in a dispute; they just can't close down the work being performed by subcontractors "B" through "Z" (with whom they have no employment relationship anyway) on the site.

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