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ABSTRACT

Work assignment disputes, known as jurisdictional disputes are common in the construction industry. They are not only costly but annoying as well. The construction industry has always been plagued with this type of dispute because each of its many craft unions regards certain types of work as a proprietary right. They jealously guard against any encroachment of their area of activity by other unions. Sometimes lines of demarcation between the various jurisdictions are not clear. Also, the development of new products and methods often brings with it clashes between unions each of whom claim exclusive right to the work assignment.

This thesis presents the problem of determining the causes of jurisdictional disputes and strikes within the industry, together with an effective method of accommodation.

Conclusions reached are that jurisdictional conflicts are the product of economic, psychological and political forces operative within the employment environment of the construction industry.

Although the National Joint Board for Settlement of Jurisdictional Disputes meets the necessary criteria for a method of accommodation, it lacks the means of enforcing its awards.

The most effective method of accommodation is to com-

bine the injunctive and enforcement powers of the National Labor Relations Board with the arbitration and mediation process of the National Joint Board for Settlement of Jurisdictional Disputes.

JURISDICTIONAL DISPUTES WITHIN THE CONSTRUCTION INDUSTRY

BY

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PREFACE

An ever present problem in the construction industry is that of work assignment disputes, commonly called jurisdictional disputes. Building contractors are constantly faced with this type of dispute. Their immediate concern is to find a quick settlement of the dispute and its accompanying strike in order to avoid further delays in the completion of the particular project in progress.

This study is an attempt to answer the questions: (1) What are the causes of jurisdictional disputes and strikes within the construction industry? (2) How can jurisdictional disputes be accommodated? (3) Is the National Joint Board for Settlement of Jurisdictional Disputes an adequate settlement procedure? (4) What legislation has been enacted which encompasses jurisdictional disputes? (5) Can improvements be made to the Joint Board procedure?

Prior to attempting to answer these questions, it is necessary to review the historical backgrounds of the construction industry and building trades unions, in order to determine the environment of a jurisdictional dispute. These are presented in chapters one and two. Chapter three examines the causes of jurisdictional disputes and strikes; chapters four and five review the many attempts to accommodate jurisdictional disputes by the industry, and also, the

legislations enacted. Special attention is focused on the National Joint Board for the Settlement of Jurisdictional Disputes, as an effective method for accommodation of this type of dispute, and on the Taft-Hartley Act, as a method for enforcing the awards of the National Joint Board.

The author concludes that the Joint Board meets the necessary criteria for a method of accommodation, but lacks the means for enforcing its awards. It must look to the National Labor Relations Board and the Taft-Hartley Act for enforcement. The Taft-Hartley Act, if properly administered, can provide the enforcement requirements.

The author is indebted to many people who have aided him in preparing this thesis and wishes to acknowledge their help and interest. He wishes to thank Professor Joseph Rich for his advice and aid in the formulation of the approach to the thesis. Also, to Mr. J. Cortright for his advice and comments. Acknowledgements are also made to Mrs. Theresa Magarelli for typing the final manuscript.

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Dominick J. Magarelli

June, 1962

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CHAPTER I

CONSTRUCTION INDUSTRY

Introduction

Construction plays an important role in the American economy. It has even surpassed agriculture to become the nation's number one industry in dollar volume. The total annual expenditure on construction in 1958 was almost 68 billion dollars. New construction in that year accounted for 15.5 percent of the dollar value of our gross national product. Approximately one dollar in every 6.50 spent for goods and services in 1958 was a construction dollar. The Bureau of Employment Statistics, U.S. Department of Labor, indicated that over 3½ million persons were employed by the construction industry during 1958. Approximately one worker in seventeen was occupied directly by some phase of construction during that year. Considering the production, transportation, and distribution of construction materials, construction created directly and indirectly about 16 percent of the total gainful employment of this country.[1]

Construction Categories

The field of construction, can be divided into three major categories. These categories are building construction, engineering construction and industrial construction.

1. Clough, Richard H., Construction Contracting. New York: John Wiley and Sons, Inc., 1960, pp.7-9

Building construction. This category covers buildings which are erected for habitation, institutional, educational, light industry, commercial, social and recreational purposes. It is generally regarded as the mainstay of the construction industry and usually contributes about one half of the total annual dollar volume of construction. In normal business years, private capital finances most of the projects within this category. The bulk of building construction is designed by architects or architect-engineering firms and is built by professional building contractors under contract with the owner. When public bodies or agencies are involved as the owners, they themselves sometimes carry out the function of the architects.

A subdivision of the building construction category might be speculative construction, which describes those projects that are designed, financed,[2] and built by a speculator or developer for sale or lease. Housing projects constitute the majority of this division. Here, the developer acts as his own prime contractor and he often builds for unknown owners.

Engineering construction. This category covers structures that are planned and designed by professional engineers. The actual construction is usually carried out by a professional contractor under contract with the owner and with en-

2. Ibid No. 1, pp. 9

gineering supervision. This category includes structures that are not primarily architectural in nature but that involve predominately engineering field materials such as earth, rock, steel, concrete, piping and timbers. This broad category may be divided into two subgroups - highway construction and heavy construction. The highway construction covers clearing, exacation, fill, paving, drainage, bridge structures, and such items commonly associated with highway work. Heavy construction is usually interpreted to include sewage and water treatment plants, dams, waterways, levees, pipe and pole lines, marine structures, tunnels, bridges, reclamation projects and railroad work.

Industrial construction. Industrial construction covers the erection of projects that are associated with the manufacturing or processing of a commercial product or service. Such structures are highly technical in nature and are usually constructed by specialized contracting firms that do both the design and construction under contract with the owners. Petroleum refineries, steel mills, chemical plants, ore reduction plants, electric power generating stations and similar industrial installations are all examples of this category.

Contract Method of Construction

Most of the industry operates on the basis of con-

tracts.[3] The investor, who finances the venture, has plans prepared and invites contractors to submit a bid based on an estimate of cost plus an allowance for profit. The bids are reviewed by the investor, who usually accepts the lowest bid. A contract for the amount of the bid is executed, and this is called a lump sum contract. Bidding is competitive, the intensity of competition determined by the number of construction contracts being let. The contractor's profit is the difference between the bid and the actual costs.

Sometimes plans are incomplete or subject to change. The work and costs may be impossible to estimate; here, another form of contract occurs, namely, the cost-plus contract. In this contract, the contractor agrees to construct the project to the investor's specifications, and the investor agrees to pay all costs as stated in the contract, plus a fixed fee, or a fee, which is a percentage of costs.

Both lump sum and cost-plus contracts stipulate a completion date and for liquidated damages in the event the contractor fails to meet the contract completion date.

3. "The Contract Method of Construction Safeguards Public Funds," Associated General Contractors of America, 2nd edition, August 1957, pp.3-6

Types of Contractors

There are two types of contractors,[4] the general contractor and the specialty contractor. The general contractor may construct the entire project, or he may subcontract certain portions of work to a specialty contractor. As stated before, the general contractor performs in a certain type of construction, whether building, engineering or industrial construction. The specialty contractor concentrates in a single trade or sometimes in two or more trades such as electrical or plumbing and heating work. The general contractor employs certain basic crafts, such as carpenters, laborers, masons and ironworkers, and the specialty contractor employs certain specialty or shop crafts.

The general contractor, in preparing his bid, receives bids from specialty contractors for certain portions of the project. If the general contractor is successful and awarded the contract, he usually subcontracts certain portions of the job to specialty contractors who have submitted their estimates during the general bid period.

Actually, the general contractor assigns the work to be done, plans the sequence of operations, supplies the materials and equipment and assumes the full responsibility for the financial outcome of the project.

4. "The Functions of a General Contractor," Associated General Contractors of America, Washington, D.C., 1957, pp.7

Size and Employment

At the end of 1958, there were 475,000 contract construction firms in the United States or 11 percent of the total business population. During that year, 69,000 firms entered the industry, 40,000 left, and 12,000 were involved in reorganizations and incorporations. The respective percentage changes were 14, 9 and 3 compared with 9, 7 and 8 for all industry which is a reflection of the ease of entry in certain sections of the country, the growth of the industry during that year, and the practice of organizing a firm for a particular job or jobs and disbanding the firm when the work is completed.[5]

Many companies in the industry are small, individual proprietorships or partnerships. As of 1951, 95 percent of the firms employed less than twenty employees. These companies accounted for 40 percent of all construction employment. Only the retail trade and the service industries had smaller firms. In contrast, however, less than one tenth of 1 percent of the firms accounted for 13 percent of the construction employment.[6]

A Typical Construction Project

A feature of a construction project is the physical

5. Kaplan, Benjamin D., "Profile of the Contract Construction Industry," Construction Review, February, 1957, pp.3-4

6. Ibid, pp.5

location - the job site. Materials are fabricated and assembled at the job site or prefabricated off-site and then assembled at the job site. The significance of this is that the location of employment is periodically changing and the average length of a construction job is of short duration.[7] Large projects may take years, or a building may take only a few months to be completed.

As construction at the job site begins, a skelton crew of all crafts is hired by the general contractor and his subcontractors. This skelton force remains throughout the course of the job. However, employment for each craft varies in accordance with the stage of construction.

The first crafts employed are the basic crafts - carp-- enters, bricklayers, stone masons, cement or concrete masons, structural ironworkers, ornamental ironworkers, and reinforcing ironworkers, riggers, operating engineers, laborers, and construction teamsters. They erect the shell of the structure. The employment of these crafts builds up as construction progresses.

When the shell has begun to take shape, mechanical crafts begin to install the mechanical equipment such as heating and ventilating equipment, plumbing and electrical

7. Haber, William and Levinson, Harold M., Labor Relations and Productivity in the Building Trades. Ann Arbor: Bureau of Industrial Relations, University of Michigan, 1956, pp.38-42.

work. The employment of these craftsmen - such as plumbers, pipefitters, electricians, sheetmetal workers, boilermakers, and elevator constructors - tends to build toward the completion of the project.

The employment of the finishing trades - such as lathers, plasterers, marble setters, tile setters, terrazzo workers, painters, paperhangers, glaziers, roofers, finish carpenters, also builds toward the completion of the project.

As can be seen, the employment of any one craft or trade on a particular project is subject to fluctuations as the project proceeds through its various stages. This, in turn, can be considered one of the basic underlying factors of jurisdictional disputes.[8]

Seasonal Fluctuations

Construction employment is also subject to seasonal fluctuations of the weather. Construction employment is generally highest in the summer months and lowest during the winter months. Many contractors will shut down their entire project at the beginning of the cold winter months and remobilize in the early spring. Lately contractors have been employing winter protection techniques which allow them to continue throughout the winter months. However, the weather still remains a problem since these techniques can be very costly.

8. Ibid No. 7, pp. 43.

Cyclical Fluctuations

The construction industry is also subject to cyclical fluctuations.[9] Construction work for private organizations depends upon the business decisions of the investors, while construction work for public agencies depends upon the political decisions of the people in office.

Therefore, new construction work is not constant in any geographical area. It can be large in any particular area or small depending upon local conditions. In this respect, employment shifts where the project is located.

Employment Relationship

As mentioned previously, construction employment is subject to seasonal and cyclical fluctuations, as well as to fluctuations as the project progresses through various stages of completion. These factors, in addition to the uncertainty of new projects, prevent the contractor from maintaining more than a skeleton crew of permanent employees.

Sometimes the contractor hires men through employment offices or by advertising. When he no longer needs the skills of these men, they are let go.

In most cases the contractor orders craftsmen, as needed, from their respective unions. The business agent

9. Ibid No. 7, pp. 48.

for the union will then send the men necessary to meet the contractor's particular need. If the men are no longer needed, their employment is terminated by the contractor, and they return to the union hall to wait for the next call.

Summary

The rapid growth of the construction industry has made it the nation's number one industry in dollar volume and has created both directly and indirectly about 16 percent of the total employment of this country.

The industry has three distinct branches - building construction, engineering construction and industrial construction, most of whom operate on a contract basis. The industry is also made up of a large number of small contracting firms, which conduct operations within a particular area. Its product is not manufactured, but is assembled on a particular site; therefore the industry and not the product, is mobile.

The projects vary from a simple building, to a highly complex chemical or power generating stations. Each project is built to its own set of specifications, and the contractors and the craftsmen are skilled specialists.

The employment is subject to seasonal and cyclical fluctuations. In addition, since projects are of a limited duration, employment will be limited. In this connect-

ion the demand for particular skilled craftsmen varies during the course of a project.

Contractors' demand for labor varies. He can hire craftsmen as his needs require, and can discharge them when they are no longer needed. In addition, the uncertainty of obtaining new projects prevent contractors from maintaining more than a skeleton crew of permanent employees.

CHAPTER II

BUILDING TRADES UNIONS

Origin

Local unions first appeared on the American industrial scene late in the 18th century. Unions of skilled craftsmen began to form about 1800. These unions faced the common problems of controlling entrances to the trade, traveling craftsmen who had to join each local union in order to obtain work, strike breaking by traveling craftsmen, and the need for aid in collective bargaining. These causes led to the movement of organizing national unions.[1]

In 1886, the first union association was attempted, and failed. However, after several attempts, the American Federation of Labor (AFL) Building Trades Department was organized in 1908.

In 1935, the second major union organization was formed by leaders of eight industrial unions formally associated with the AFL for the purpose of organizing the mass production workers. This group was known as the Committee for Industrial Organizations (CIO).

Construction is the domain of the AFL, while the CIO is an organization of industrial unions. However, in recent

1. Haber, William, Industrial Relations in the Building Industry. Cambridge: Harvard University Press, 1930, pp.269-327.

years, there have been jurisdictional conflicts between the Building and Construction Trades (AFL) and the Industrial Union Department (CIO) concerning work associated with industrial plants that employ CIO members. Existing agreements between these organizations, provided that all new construction work be in the domain of the building trades and all production maintenance work be done by the industrial unions.[2]

As the result of the conflicts which occurred quite frequently, and which were seriously injuring the cause of unionism, both parties agreed to reunification and in 1955, the Building and Construction Trades Department AFL-CIO was formed.

Structure of the Unions

The two major unions in the United States, are each composed of a variety of subordinate unions. The most important of the unions in both the AFL and the CIO are the national and the international unions. These unions are self governing bodies which, for the purpose of achieving common objectives, have found it better to federate.[3]

At the present time, there are eighteen national and international unions that are affiliated with the Building and Construction Trades Department of the AFL-CIO. These

2. Ibid No. 1, pp. 273.

3. Dankert, Clyde E., An Introduction to Labor. New York: Prentice Hall, Inc., 1954, pp. 157.

unions are listed in Table 1.[4] The term "international" refers to those unions that have jurisdiction over members in Canada and Mexico. The structure of a typical affiliate is shown by Figure 1.

The Local Union

The basic unit of an international union is the local. Each local exercises jurisdiction over a definite geographical area such as a borough, city, county or state.[5] A carpenter's local, for example, is the union headquarters for all union carpenters who may be working in that area. the local is responsible for all union activities of that craft within its geographical area, including payment of dues, apprentice programs, and administering collective bargaining agreements.

The locals of an international union are grouped to form divisions on a district, state, county or city basis. They serve to coordinate the activities of all members into one approach to common problems.

Locals of different unions unite on a regional basis, to form building and construction trades councils. These

4. "Building and Construction Trades Department, AFL-CIO, Report of Proceedings of the Fiftieth Anniversary Convention," Washington, D.C., December, 1957.

5. Barbash, J., The Practice of Unionism. New York: Harper & Bros., 1956, pp. 102.

Table 1. National & International Unions Affiliated with the Building and Construction Trades Department, AFL-CIO

1. International Association of Heat and Frost Insulators and Asbestos Workers.
2. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers.
3. Bricklayers, Masons and Plasterers' International Union.
4. United Brotherhood of Carpenters and Joiners of America.
5. International Brotherhood of Electrical Workers.
6. International Unions of Elevator Constructors.
7. Granite Cutters International Association of America.
8. International Association of Bridge, Structural and Ornamental Iron Workers.
9. International Hod Carriers, Building and Common Laborers' Union.
10. Wood, Wire and Metal Lathers International Union.
11. International Association of Marble, Stone and Slate Polishers, Rubbers and Sawyers, Tile and Marble Setters Helpers and Terrazzo Helpers.
12. International Union of Operating Engineers.
13. Brotherhood of Painters, Decorators and Paperhangers of America.
14. Operative Plasterers and Cement Masons International Associations.
15. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.
16. United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association.
17. Sheet Metal Workers International Association.
18. Journeymen Stone Cutters' Association of North America.

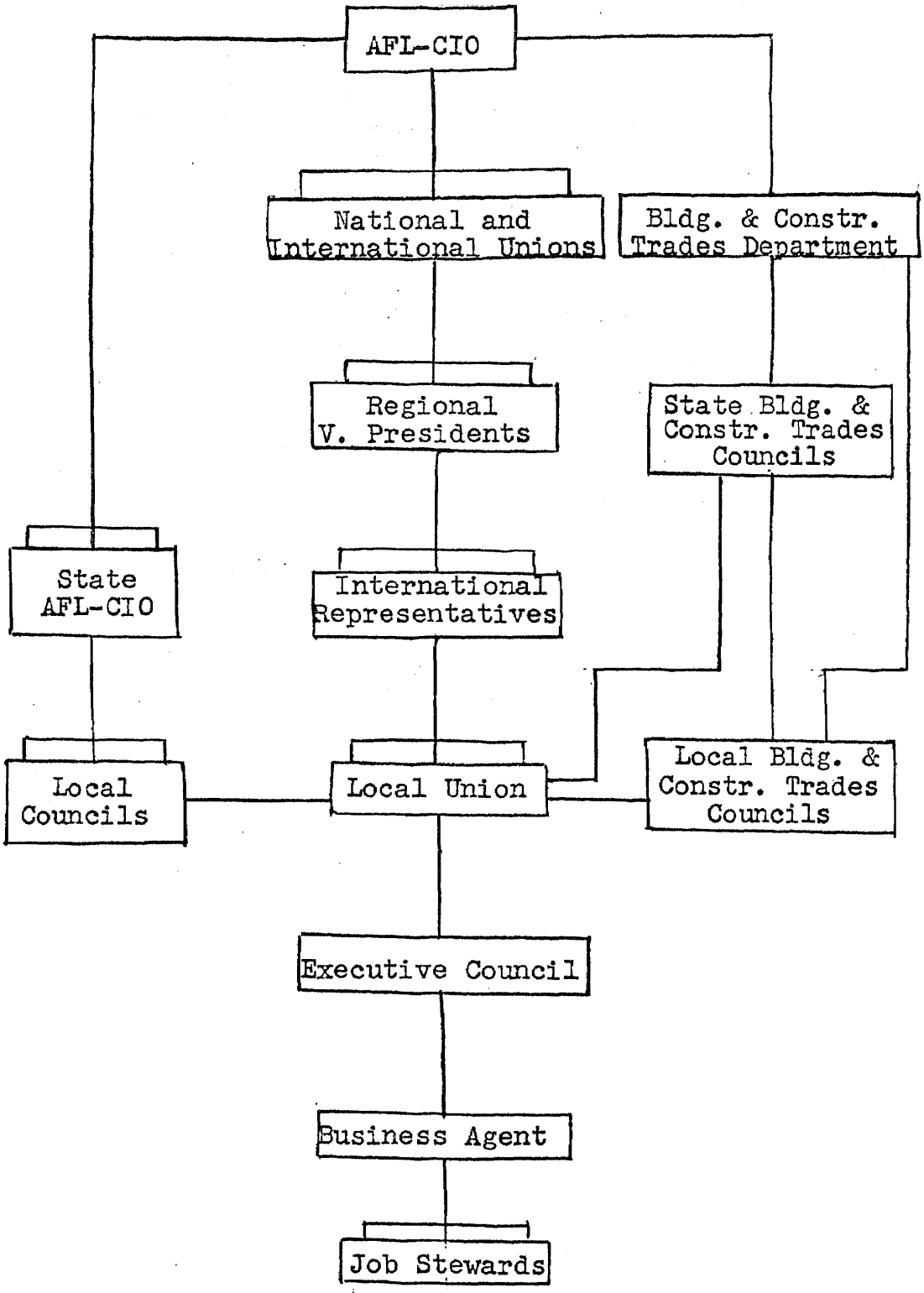

Fig. 1. Structure Typical of an Affiliate of the Building and Construction Trades Department, AFL-CIO.

councils are formed of delegates from each local. One important function of these councils is during periods of collective bargaining with the contractors.

Union Policies

The local is chartered by its international union and is subject to the constitution and by-laws of the parent organization. However, the locals do enjoy a high degree of independence and freedom of action. They are free to negotiate agreements and call strikes without the formal approval of the international union.[6]

Each local has its own set of by-laws that governs the election of local officers, ratifying of labor contracts, conduct of meetings, payment of dues, expulsion of members, and etc.

The legislative body of all locals is the members. Elected officers carry out the union rules as ratified by a majority vote of the members and also, all matters of union policy, demands for contract changes, decisions to strike, and etc, must be passed on by the voting members.

The members elect local officers, these usually consisting of a president, vice president, secretary-treasurer, and sargeant-at-arms. These officers may or may not be

6. Ibid, No. 5, pp. 1-104.

salaried. Some work out an arrangement whereby they are paid only for time actually spent on union business. An executive board is established which is primarily concerned with the admission of new members, financial matters, and contract negotiation. In most unions, there is one paid union representative; he is the business agent who devotes his time to administering the work of the local and is paid at the top rate of his craft.

The Business Agent

In contrast to any local officer in an industrial union, the business agent of a building trades local is a man with power. He is usually elected, but sometimes a local may hire a business agent. The local members are usually scattered on various jobs and, in many instances, is dependent upon the business agent for employment. The short duration of construction jobs requires prompt action on members' grievances. The need for prompt action and the hiring hall functions of a local union require that a union have a business agent.[7] These factors are also his source of power.

The primary duty of the business agent is to police the jobs. This requires traveling to the various job sites, which are often spread over a wide area. The purposes are

7. Strauss, George, "Business Agents in the Building Trades, A Case Study in a Community," Industrial and Labor Relations Review, Vol. 10. No. 2, January, 1957.

to see that only union men are hired; to protect the union's jurisdiction; to check wages; working conditions and complaints; and to settle disputes that may have arisen between the steward and the contractor. Another reason for these constant visits, is to talk to the members to let them know that their interests are being protected. Jobs with trouble get the first call, but the business agent attempts to make regular visits to all jobs.

In some areas, the collective bargaining agreement requires that all contractors hire through the union hall. In other areas, the men are free to find work for themselves. Even when not required to do so, contractors often request the business agent to dispatch men to their jobs, which gives the business agent a great deal of power over the members, the foremen, and the contractor, since he can reward his friends and punish his enemies.[8]

The business agent exercises control over members by assigning friends to jobs of long duration or with good working conditions, and lets the troublemakers cool off on the bench or assign jobs which, in essence, are of short duration, or do not have good working conditions. The business agent's relations with the foremen on the job is good, since the foremen usually are members of the union, and concur with

8. Ibid, No. 7.

the business agent's thinking. In addition, the foremen are well aware that his status may end upon completion of a particular project, and that in order to get a good future foremen's job, he may be dependent upon the business agent.

Also, most contractors carry on very friendly relations with the business agent in the attempt to avoid trouble on a particular job, by having only qualified good craftsmen work on the project. Poor relations with the business agent would mean a "no men on the bench" answer to a call for craftsmen for a job or else second rate craftsmen are sent to the job.

The Job Steward

On a construction job, the craft steward is the immediate representative of the local union. He is usually the first man to be hired on the job and the last to be discharged. He may be elected by the men on the job, or he may be appointed by the business agent. The business agent prefers the latter, since he will be responsible for the steward's actions.[9]

The steward deals with grievances that arise on the job and also protects his union's jurisdictions. When a union member on the job has a grievance such as errors in

9. Ibid, No. 7.

wage payment, etc, he contacts his steward who will either go to the contractor or else contact the business agent.

Most stewards work with their tools except when they leave the job to process a grievance or to investigate a possible jurisdictional dispute.

Summary

There are eighteen unions affiliated with the Building and Construction Trades Department, AFL-CIO.

The Building Trades Unions are predominately craft unions. Some are trade and others are semi-industrial unions. Each union has a broad statement of jurisdictional claims.

The business agent of a local, through his influence over hiring, exercises considerable control within the industry. On the individual job, the members of the union are represented by the steward. A primary duty of the business agent and the steward is to protect the jurisdiction of their craft.

It is obvious that trades unions make an important contribution to the operation of the construction industry, by providing a pool of skilled and experienced labor from which the contractor can draw as his needs may dictate.

CHAPTER III

CAUSES OF JURISDICTIONAL DISPUTES AND JURISDICTIONAL STRIKES

Introduction

The term jurisdictional dispute is commonly used in the construction industry to describe what might accurately be termed a work assignment dispute. A jurisdictional strike is a strike arising from a dispute when a craft seeks to enforce its claim to a work assignment.[1]

An accurate theory of the causes of jurisdictional disputes and strikes is a prerequisite for the establishment of an effective method of settlement. This was determined by reviewing: (1) the basic, or underlying causes of jurisdictional disputes; (2) the specific causes of jurisdictional disputes; (3) the causes of jurisdictional strikes; and (4) the types of jurisdictional strikes.

The Underlying Causes

In earlier chapters, it was shown how employment in the construction industry is subject to fluctuations of various types, such as cyclical, seasonal and varying craft requirements needed as a project progresses from inception to completion. It was also shown how these fluctuations have caused craftsmen to depend entirely on their unions for employment.

1. Braun, Kurt, Labor Disputes and Their Settlement. Baltimore, Md.: The John Hopkins Press, 1955, pp. 30.

The amount of work available for the members of any building trades local is also depended upon: (1) the territorial jurisdiction of the local union; (2) the volume of construction work within the territory; and (3) the portion of the jobs created by the scheduled construction manned by the members of the local union.

The territorial jurisdiction of the local union is assigned by the international. These are given and fixed. However, intra-union jurisdictional disputes occur involving territorial jurisdiction. If, for example, a river forms a boundary of the territorial jurisdiction of a local union, the construction of a dam across the river creates a jurisdictional dispute between the neighboring locals of the same international union. This dispute is usually resolved by the locals or the international. Similar disputes occur between adjacent Building Trades Councils, especially when large projects occur in the marginal areas between the councils. These are resolved by the Department.[2]

These disputes are significant in that they represent additional methods whereby locals and councils attempt to increase the employment opportunities of their members.

The volume of construction within the territorial jurisdiction of a local varies, and is subject to very little un-

2. "Building and Construction Trades Department, AFL-CIO, Report of Proceedings, Fiftieth Anniversary Convention", December, 1957, pp. 105.

ion influence. The portion of jobs created by the scheduled construction that are manned by members of the local union is also variable but subject to considerable influence from the local unions.

The local unions have also developed many techniques, other than jurisdictional disputes and strikes, which are used to maximize the employment opportunities of their members. These techniques include the closed shop, which prevents access to jobs by nonmembers; the closed union, which tends to equate the number of members available for jobs and the average number of jobs available; the apprentice system, which provides that members who retire or die will be replaced by trained craftsmen; the permit system, which allows non-members temporary access to jobs in order to meet high employment demands without a permanent increase in membership; the traveler system, which allows members of the international to move from local to local in response to employment demands; and the penalty payment for overtime and restrictions on the length of work week, which tend to spread existing jobs among the membership.[3]

Certain working rules also tend to increase, or maintain, the number of available jobs. The working rules control the number of foremen in relation to journeymen; the

3. Ibid No. 1, pp. 32.

use of tools by foremen and contractors; and obstruction to, or control over, the introduction of new tools, materials and methods that would decrease employment opportunities.

The Specific Causes

The specific causes of jurisdictional disputes among the Building Trades Unions are (1) overlapping of jurisdictional claims and of the skills of crafts; (2) existence of dual unionism; (3) aggressiveness of some unions; (4) changes in methods, machinery and materials; and (5) actions of employers.[4]

Overlapping of jurisdictional claims and skills. The jurisdictional claims of the national and international unions affiliated with the Department vary from a brief statement such as that of the Teamsters to a detailed and lengthy statement such as that of the Plumbers.

There is little argument about the core of a craft's jurisdictional claims such as electrical work by the Electricians, plumbing and piping by the Plumbers, or the installation of structural steel by the Iron Workers. This is because no craft is completely substitutive for another. The one exception might be that of the Laborers, a union composed largely of relatively unskilled men but whose jurisdiction covers hard and unpleasant work. Other crafts

4. Ibid No. 2, pp. 134-147.

could be substituted but either do not claim jurisdiction because of the nature of the work, or because of employer opposition to the substitution of a higher wage craft for a lower wage craft.

Conflict arises in the margin of the jurisdictional claims where the skill of one craft can be substituted for the skill or lack of skill, of another craft, and, most important, where two or more crafts attempt to effect such substitution through the application of the conflicting or overlapping claims.[5] For example, the carpenters claim that the handling of all materials used by carpenters and joiners in and around buildings, including all joints, frames and all lumber and material used by the carpenter and the contractor. However, the Laborers claim that Tenders - tending masons, plasterers, carpenters and other building and construction crafts and mixing, handling and conveying of all materials used by masons, plasterers, carpenters and other building and construction crafts whether done by hand or by any other process, drying of plastering when done by salmander heat and cleaning and clearing of all debris. On items such as the handling of materials used by carpenters, the claims overlap. Another example would be, who strips panel forms that are going to be reused? It

5. Ibid No. 2, pp. 148.

falls under the category of clearing of debris and also handling of material used by the carpenter. This particular dispute stopped over forty million dollars worth of construction in New Jersey and was instrumental in the passing of jurisdictional dispute provision of the Taft-Hartley Act.[6]

However, the two unions referred to in the above, reached the agreement that: (1) on stripping of panel forms to be reused again, the releasing shall be done by the carpenters; and (2) the moving, cleaning, oiling and carrying to the next point of erection, and the stripping of forms which are not to be reused, and forms on all flat arch work shall be done by the laborers.[7]

In addition to overlapping claims, another area of possible conflict exists, namely in the "savings clause," which can be subject to liberal construction. The following example is illustrative of possible jurisdictional claims. The plumbers claim that the handling and using of all tools and equipment that may be necessary for the erection and installation of all work and materials used in the pipefitting industry is their jurisdiction. Also, piping means pipe made from metals, tiles, glass, rubber

6. See Chapter V for discussion of Taft-Hartley Act.

7. "National Jurisdictional Agreement," The Associated General Contractors of America, Inc., Washington, D.C., 1957, pp. 14.

plastics, wood, or any other kind of material, or product, manufactured into pipe, usable in the pipefitting industry, regardless of size or shapes.

Aggressive business agents or job stewards could generate many disputes through a liberal construction of this type of clause.

The existence of dual unionism. This problem occurs when the craft skills, are completely or substantially, rather than marginally, substitutive. The dual unions within the Building and Construction Trades Department of the AFL have been eliminated through amalgamation. In the past, disputes between dual unions were a big problem. For example, dual unions of the Plumbers and the Steam Fitters existed within the piping trades after 1899. Over the years disputes occurred between the two crafts, and in 1911 the AFL ordered amalgamation. In 1913, the organizations combined into the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of United States and Canada.[8]

Amalgamation is only a partial solution to the problem of jurisdictional disputes because it is applicable only where dual unions exist; a condition that is not prevalent in the industry.

8. Haber, op.cit., pp. 164-168.

Aggressiveness of some unions. When a local or an international union, consciously or unconsciously, adopts a policy of effecting the substitution of its members for the members of other unions, such a policy is called imperialism, because the job territory of one union is being enlarged at the expense of another. The limits to the imperialism of a single union are the number of crafts which its claims overlap, and the degree to which the skills of its members can be substituted for those, of other unions.

The policy of imperialism may receive active support from the members of the imperialistic union because they are capable of doing the work and because their job territory is being enlarged, which means greater employment possibilities.

A local or an international union may also adopt a policy of merely maintaining its job territory - known as a policy of "status quo."[9] If the union whose territory is being invaded does not resist, the members can regard this lack of action not as a policy of status quo, but as appeasement.

When unions negotiate an agreement defining the jurisdiction of certain disputed items claimed by both, the agreement becomes a definition of status qup.

9. Morgenthau, Hans J., Politics Among the Nations. New York: A.A. Knopf, 1950, pp. 13-68.

A local union or an international may adopt a policy of imperialism for reasons of local union internal problems, rivalries in local councils, and international union relations.

Because the business agent must stand for re-election, he is always under pressure to push the jurisdictional claims of his union with vigor to keep the membership from voting him out of his job.

In the absence of election pressures, there is pressure on business agents to do something about jobs whenever a sizable portion of the membership is on the bench for any of the various unemployment reasons in the construction industry.

Rivalries in local councils have caused business agents of various unions to form alliances to curb an imperialistic member of the council. In addition, alliances may use the same dispute technique to pressure a member into line on other issues. Local Building Trades Councils are not empowered to make binding jurisdictional awards; disputes are often discussed and informally adjusted in a council.[10]

Changes in methods, machinery, and material. These changes in the construction industry can take the form of

10. Dunlop, John T., "Jurisdictional Disputes, 10 Types," The Constructor, No. 171, July 1953, pp. 25.

change in construction methods, materials and machinery. The significance of the change is that it disturbs or eliminates established jurisdictional understandings and agreements and thereby creating a jurisdictional vacuum.

A contractor may develop a new way for performing an old task. When this happens, the work over which one craft had undisputed claim now comes within the jurisdictional claims of another union. For example, the carpenters have always built the wooden forms necessary for the pouring of concrete. However, reusable metal forms have been developed. The jurisdiction over the installation of these new forms is claimed by the iron workers on the basis that the use of iron and steel comes within their jurisdiction. The work is also claimed by the carpenters on the grounds that this new method replaced a method that was within their jurisdiction and that therefore, they are entitled to it.

The invention of this new method created a jurisdictional vacuum.[11] Here, the carpenters argue on the basis of function, attempting to maintain the status quo by claiming the method that replaced their established jurisdiction. The iron workers, base their arguments on the nature of the material, and are imperialistic in the sense that they want to enlarge their job territory if they succeed in securing the work on metal forms.

11. Ibid No. 10, pp. 27.

The success of the carpenters to maintain the status quo will depend on their ability to perform the disputed work. If the carpenters are unable to supply welders to the contractors, then their claim over metal forms cannot be successful.

When machinery is introduced, the need for a particular skill is reduced, and the operation of the machine falls within the area of substitution.[12]

The union whose job territory has been invaded will attempt to prevent or slow down the adoption of the machine, and where the adoption of the machine is inevitable, the invaded union will claim jurisdiction over the machine in an attempt to save as much job territory as possible. An example of this case occurred with the introduction of the hydraulic hammer to lay floors. The laborers claimed the work, because their jurisdiction include certain hydraulic air equipment, and this led to a dispute with the carpenters, who had always laid floors. Other machines that have created disputes are cement finishing machines, cement pouring and mixing machines and spray guns for painting.

The introduction of new materials tends to make obsolete the uses of certain established materials, and any new material may fall within the claims of one or more unions.

12. Ibid No. 10, pp. 29.

The unions whose job territory has been reduced will oppose the introduction of the material or claim jurisdiction over the material on the basis that it is a substitute. The imperialistic union will claim it on the basis of their jurisdictional claims. Examples of new materials introduced include such materials as metal lath for wooden lath and concrete for brick and stone.

The success of the status quo union or the imperialistic union will depend not on its ability to perform the work, because the new material usually reduces the need for skill, but on its power to influence the contractor or to influence jurisdictional decisions within any established plan for settlement.

The action of employers. The National Joint Board for Settlement of Jurisdictional Disputes in the Building and Construction Industry, has specified standards that member contractors are to follow when making work assignments. These standards are: (1) area practice, and (2) decisions or agreements of record, and (3) if none of the above are applicable, the contractor's best judgement after consulting the involved trades.[13]

Decisions and agreements of record are decisions of the AFL and the Department, and the jurisdictional agree-

13. Procedural Rules and Regulations of the National Joint Board for Settlement of Jurisdictional Disputes in the Building and Construction Industry, as amended August, 1957, pp. 3.

ments between unions that were accepted by the parties when the Joint Board was established. Decisions of record are the only statements of jurisdiction binding on all the unions affiliated with the Department. Agreements of record are binding only on the signatory unions and do not affect the claims of nonsignatory unions. Both decisions and agreements of record are binding on the contractors who are required as members of the Joint Board plan, and as such, base their assignments of work. These are published by the Department in a green covered booklet known in the industry as the "Green Book", which constitutes the official guide for work assignments. The jurisdictional claims of the various unions are not recognized as binding but are regarded solely as claims.[14]

The process of negotiating a jurisdictional agreement between two internationals is very delicate. Some agreements have taken as long as eight years to complete. The process has three clear steps: (1) tentative understandings, (2) interim agreements, and (3) attested agreements under the Joint Board plan.

As unions attempt to negotiate national agreements, their committee agree on some phases of disputed work early in the negotiations. These are the tentative understandings

14. Ibid No. 13, pp. 5.

and may or may not be reduced to writing. The tentative understandings are not usually published and have no formal status under the Joint Board plan; however, the unions are in a position to adjust disputes under these understandings, and they provide a basis for work assignments.

The next phase is an interim agreement. Such understandings are valid agreements that are being tested out by the unions. As such, they have no official status under the plan and are subject to change. These, also provide a basis for work assignments.

If an interim agreement is stable, it is submitted to the chairman of the Joint Board to be attested. The chairman, explores the agreement with the interested and affected contractor groups, to determine whether the agreement is practicable. When the chairman attests the agreement, it acquires the same status as an agreement of record-binding on the signatory unions and the contractors.[15]

In the absence of any form of agreement, the contractor makes the work assignment in accordance with the established practice in the local area, which is ordinarily defined as the territorial jurisdiction of the Building Trades Council in which the project is located.

15. Ibid No. 11, pp. 6.

Where there is no applicable decision or agreement of record and no predominant area practice, the contractor is required under the rules to make a specific assignment.

The procedural rules provide that once a contractor has made an assignment it shall not be altered unless otherwise directed by the Joint Board or by agreement between the International Unions involved.[16] The rules also provide that only an international union may appeal a contractor's assignment to the Joint Board. Even with this procedure for making work assignments, jurisdictional disputes are created by the actions of employers in the following number of ways: (1) no assignment of work, (2) an honest mistake in assignment, (3) a change of assignment, (4) an improper assignment, (5) conflict between an agreement and a collective contract, (6) competitive pressures, (7) absence of area practice, and (8) work load disputes.[17]

A contractor may not make a specific assignment. Instead, the contractor may hire a number of crafts and use them interchangeably (usually on small jobs) until a protest is made. A contractor may not hire members of a particular craft at the start of a job but allows their work to be done by the present crew. When members of this craft

16. Morgenthau, op. cit., pp. 78.
17. Dunlop, op. cit., pp. 166.

are hired, or when the business agent visits the job, a dispute occurs.

Another example is that the contractor may honestly misinterpret a decision or agreement of record. In the absence of applicable decisions or agreements of record, he may rely on his own knowledge of area practice, either because he is acquainted with the area practice on a different type of construction.

A contractor may make what he considers a fair assignment. The one union, rather than appeal to the Joint Board or because its international will not appeal, threatens the contractor with a strike. If the craft is large and important to the project, the contractor may change assignments, preferring a possible dispute with the craft to which it was originally assigned.

A contractor may consciously misassign work. He may favor a dominant craft, or a craft with which he has affiliations, on all marginal decisions. Under the pressures of competition, he may assign marginal work to the craft with the lowest wage scale or highest productivity.[18]

During contract negotiations, the Building Trades Unions often attempt to have the contractors recognize their

18. Ibid No. 17, pp.172.

jurisdictional claims by a clause within the collective bargaining contracts. The general contractor, as a rule, avoid this; however, the contracts of the specialty trades often contain their jurisdictional claims. When these are in conflict with an agreement or decision of record, a dispute will often develop. The Joint Board plan does not recognize jurisdictional claims contained in contracts as being valid.

Work that is not covered by decisions and agreement of record and not covered by area practice is a prime source for jurisdictional disputes and presents the hard cases for the contractor. The lack of area practice comes about in two ways. The first is when there are large projects in remote areas which brings together business agents and contractors with different concepts of what constitutes area practice in an area where there is no area practice. The second is change in new methods, materials, and machinery create new work for which there is no area practice.[19] It is in this area, that the contractor hears the widest vaiety of criteria being argued as the basis for which assignments. Claims may be based on material - the craft has always had jurisdiction over this material; tools - the work requires the use of a certain tool that clearly makes it the work of the claiming craft; skill - the work

19. McCaffree, Kenneth M., "Collective Bargaining in Atomic Energy Construction," The Journal of Political Economy, Vol. 322, No. 65, August, 1957.

requires the skill of the claiming craft; replacement or substitution - the work replaces the tool, material or process over which the craft has always had jurisdiction, therefore it is entitled to the jurisdiction of the replacement.

Causes of Strikes

The principal reasons for jurisdictional strikes are the short duration of a construction job and the imperialistic attitude of certain locals or international unions. The typical construction job is of short duration, particularly that portion of the job that concerns the disputed work. Any settlement procedure that involves delay may result in an empty victory if an award is for work that has been completed. Also, a strike forces prompt action and tends to maintain the status quo until a settlement is reached.

The Joint Board agreement provides that there shall be no work stoppages and that an international union may file a protest of a contractor's work assignment.[20] If a stoppage occurs, the international unions have agreed to direct the return of men to work, or to furnish men to a project and that no local union shall institute or post picket lines for jurisdictional purposes. The Joint Board will not issue a decision while there is a work stoppage.

20. Procedural Rules, op. cit., pp. 9.

A strike, except for occasional spontaneous protest demonstrations, requires a decision to strike. This decision is usually made by the business agent, and is contingent upon an estimation of the union's chances of success in acquiring gains or halting another union's advances. Success is dependent upon how strong the union is, and the contractor's demand for the job and the craft related to it.

The contractor's demand for the members of the union is determined by the skills over which the craft has job control, the phase of the construction job, and the urgency of the contractor to complete the job. While attempts are made to settle a dispute, there is always the threat of a strike.

The jurisdictional dispute consists of a statement of a jurisdictional claim by the steward or business agent made to the contractor prior to the actual assignment of work.[21] If the work has been assigned, the job steward may protest to the contractor or to the steward of the craft to which the work was assigned. Many disputes are settled at this level after examining the disputed work and referring to the decisions and agreements of record contained in the Green Book. The steward often calls the

21. Ibid No. 19, pp. 10.

business agent for instructions. If the dispute is significent, the business agent takes over the defense of the job territory. The business agent may confer with the business agent of the craft doing the work and then advise the contractor of any agreement reached.

If the business agents do not reach an agreement or if the contractor refuses to accept the agreement, the dispute may move to a higher level, that of the international representative. The two international representatives may reach an agreement and may so inform the contractor. If no agreement is reached, the invaded local may request its international to refer the dispute to the Joint Board. The contractor, fearing a strike, may also refer the dispute to the Joint Board, or prior, at the inception of the dispute.

The Jurisdictional Strike

The jurisdictional strike may occur prior to the assignment of the disputed work, in which case, the object is to force the contractor to make the original assignment to its members, or after the assignment to force the contractor to change the assignment.[22]

A strike may occur prior to the actual assignment of work because the craft's power is greatest early in the job.

22. Dunlop, op. cit., pp. 181.

By striking when it has maximum power, a craft may be able to dictate an early assignment and installation prior to the time when an opposing union would have greater power.

Strikes may occur prior to the actual assignment of work when a craft takes possession of the work without a formal assignment with the intention of completing it befor discovery by the disputing union. The disputing union may strike in protest. Such action may cause the contractor to make the formal assignment to the striking union. The union that had taken possession of the work may also strike at this point.

These tactics, plus the pressure of meeting a job completion deadline, have caused contractors to offer such strike settlements as: (1) a standby crew, one craft stands by idly until the other craft finishes the disputed work; (2) a mixed crew, the disputed work is done by a crew composed of members of both crafts; and (3) reperformance of the work, the second craft waits until the work is completed then dismantles it and does it over, arguing that it was not done properly.[23]

Strikes may occur immediately after assignments to force the work to be held up until an agreement is reached. There may be a long delay between the assignment and the

23. Ibid No. 22, pp. 183.

strike because the union had to wait until that portion of the project had been reached where the skills were in greatest demand.

Through ignorance or design, either the contractor or the union may fail to follow the procedures of the Joint Board. Most unions avoid the Joint Board because they fear a hollow victory by being awarded the work already completed. In addition, the international may feel that it is not getting a fair treatment through the Board. Therefore, its unofficial policy is one of strike action either to force the Board to give it fair treatment or to protect its work. Such strikes will have the approval of the international, and the men know to disobey the instructions to return to work. The international then describes the dispute as being a wildcat strike over which it has lost control.[24]

The procedural rules of the Joint Board provide that only the international office of the union may present a case before the Board. An international, who knows that elsewhere its members are performing the disputed work without protest, may avoid taking a dispute to the Joint Board because it is certain that it would receive an adverse award. The policy is not to protest this assignment because the undisputed work in other areas might be endangered by knowledge of the decision of the Joint Board.

24. Dunlop, op. cit., pp. 190.

This type of strike is often different to settle. It involves not only the local job territory but also, some status because the craft's pride is injured when members see their union being pushed around by an imperialistic union.

The Jurisdictional Strike With a Picket Line

The jurisdictional strike differs from the previously described type only in that the striking union may defy the Department's proclamation and place a picket line on the job. In general, the union members respect the line and construction grinds to a halt. The picket line transforms the jurisdictional strike from action by a single craft to that of the entire working force of the contractor. As the result, construction halts while the overhead costs remain and the job completion dateline advances. The contractor is now less willing to attempt to work out something but rather is more willing to try to end the strike through legal action.[24]

The contractor generally is interested in the immediate settlement of the dispute rather than in legal action, the reasons being: (1) any legal action will usually result in delaying a decision until after the job is completed; and (2) it doesn't make good sense to sue unions you have to live with everyday.

24. Dunlop, op. cit., pp. 191.

Summary

The main function of the jurisdictional dispute and the jurisdictional strike is the protection of the jobs claimed by the union from transgression by members of other unions.

The basic underlying cause of jurisdictional disputes is the quest for employment opportunities or job consciousness.

The more specific causes of jurisdictional disputes are the overlapping of jurisdictional claims; the existence of dual unionism; imperialistic unionism; change in method, machinery, and materials; and the actions of employers.

The jurisdictional claims of the unions overlap and have an all inclusive clause that allows imperialistic unions to expand their jurisdiction. This expansion is made easier by the high degree of substitution existing among the work skills of the many crafts. By eliminating established jurisdictional understandings and agreements, the process of change creates jurisdictional vacuums. Change, in the form of substitution of machinery for hand tools, decreases the skill requirements, thus increasing the high degree of substitution of crafts. Contractors may contribute to jurisdictional disputes because their goals coincide with those of a particular union, by avoid-

ance of the concept of exclusive jurisdiction, or by honest mistakes.

The industry has established the National Joint Board for Settlement of Jurisdictional Disputes to settle disputes and prevent strikes. The Joint Board's procedural rules provide standards for the assignment of work, namely, decisions or agreements of record, area practice, and best judgement. Problems remain beacuse of conflicting interpretations of these standards, honest mistakes of interpretations, and the absence of applicable standards.

Disputes that arise are handled by the Joint Board, which issues job decisions on a case by case basis.

Jurisdictional strikes, though banned by the procedural rules of the Joint Board, the constitution of the Building and Construction Trades Department, and the Taft-Hartley Act, occur because of the short duration of construction jobs and the imperialism of some unions. Jurisdictional strikes may be of two forms: a strike by a single craft or a strike with a picket line. The latter, if respected by the other unions, has greater impact on the contractor and is most apt to lead to legal action. Contractors generally are more interested in the settlement of the disputes than in legal action; the reasons being that of expenses and because it doesn't pay to sue unions you have to live with every day.

The employment opportunities for the members of a single local union in the building trades during a particular time period are limited by the extent to which the union has control over the jobs that become available as a result of the amount of construction undertaken within the geographical boundries of the local during that time period.

Over the years, the local unions have developed techniques designed to maximize the employment opportunities of their members. These opportunities include the closed shop, the closed union, the apprentice system, the permit system, the traveler system, and the penalty payment for overtime and restriction on the length of work week. In, addition, the working rules also tend to increase, or maintain, the number of available jobs.

CHAPTER IV

THE NATIONAL JOINT BOARD FOR SETTLEMENT OF JURISDICTIONAL DISPUTES, BUILDING AND CONSTRUCTION INDUSTRY

Origin

The plan for the settlement of jurisdictional disputes was drafted in January of 1948. It was presented to the Associated General Contractors' convention and ratified on February 12, 1948. Subsequently, it was also accepted by the specialty contractors' associations and by the Executive Council and the General Presidents of Building Trades Unions in March of 1948. On May 1, 1948, the National Joint Board for Settlement of Jurisdictional Disputes became effective.

Originally, the Plan had two boards, the Board of Trustee, which administered the Plan, and the Joint Board which administered and formulated new decisions and agreements of record.[1]

Board of Trustees

The Board of Trustees consisted of a chairman who was selected by employer and labor representatives, and of four union representatives, four employer representatives - two representing the general contractors and two representing the specialty contractors.

1. Procedural Rules and Regulations of the National Joint Board for Settlement of Jurisdictional Disputes, Building & Construction Industry, October, 1948.

When the Board of Trustees began to operate, many problems developed. Contractors confronted with disputes, would stop work and submit the disputes to the Board of Trustees. Under the Plan, disputes were first presented to the Board of Trustees, and they decided whether the disputed work was covered by agreements or decisions of record. After this was determined, the Board of Trustees issued a statement as to which decision or agreement applied in the dispute; but they did not name the craft that was to perform the work. In the event of work stoppages, the Board of Trustees would order the men to return to work.

Sometimes disputes were not covered by the record. This was another type of problem which developed and which the Board of Trustees had to solve. As the result, the Board of Trustees in August 27, 1948, issued a statement establishing procedures for contractors to make initial assignments.

In accordance with procedures established, the contractor was to make a specific assignment of work based on decisions or agreements of record. If there were none that applied, the contractor would assign the work in accordance with past practices in the local area.[2]

2. Dunlop, John T., Jurisdictional Disputes, Proceedings of the New York University Second Annual Conference on Labor. Albany: Mathew Bender & Co., 1949, pp. 496-504.

The Board of Trustees under this procedure could order the men back to work; could also state which decision or agreement of recordwas appropriate; could also order the contractors to assign work in accordance with area practice.

By a new agreement effective October 1, 1949, the Board of Trustees was given the name of the Joint Board, with the authority to issue job decisions that named the craft to which the work was awarded.

Joint Board

The Joint Board consists of an impartial chairman, four regular and four alternate labor members - two of each from the basic trades, and two of each from the specialty trades; and four regular members - two of each representing general contractors and two representing specialty contractors.

The new settlement of jurisdictional disputes is divided into two phases; (1) the maintenance of operations on individual projects free from jurisdictional work stoppages; and (2) the encouragement of new agreements and the making of new decisions of record which define the jurisdictional rights of the trades on a national basis. The Joint Board is responsible for phase (1), while phase (2) is the responsibility of separate Hearings Panels selected for each case.[3]

3. Ibid No. 1, pp. 1-3.

The procedures of the Joint Board are binding on the unions affiliated with the Building and Construction Trades Department, AFL-CIO, and on contractors who signed a stipulation agreeing to the plan to employ members of unions affiliated with the Building Trades Unions.

Under the new plan, the first responsibility is with the contractor to make a specific assignment of work based on (1) a decision of record or an agreement of record; (2) where no decision or agreement applies, the contractor is to assign the disputed work in accordance with established past practice in the local area; or (3) if neither (1) or (2) apply, the contractor is to make a specific assignment according to his best judgement after consulting representatives of the contesting trades and considering other relevant facts or arguments. Once a contractor makes an assignment of work, it is not to be altered unless otherwise directed by the Joint Board or by agreement between the International Unions involved. Once the work assignment has been made, the contractor can request a job decision from the Joint Board.[4]

Only the International Unions can file a protest against the work assignment. The Joint Board is prohibited to act on a protest direct from a local union. Once the

4. Ibid No. 2, pp. 500.

International Union files a protest, the Joint Board can make a job decision.

The unions are required to continue to work according to work assignments made until a job decision is made by the Joint Board. In cases of strikes, either the contractor or the International Union involved can notify the Joint Board. The Joint Board can not make a decision while there is a strike; but as soon as a notice of one is received, the Joint Board notifies the General President of the union involved in a strike to order the members on strike to return to work until settlement of dispute is reached, and also that they have five business days to state their arguments.

If the Joint Board finds that an agreement or decision of record applies in the particular dispute, they issue a job decision based on the agreement or decision of record. If they find that the disputed work is not covered by a decision or agreement of record, they issue a job decision based on established trade practices or area practices. In this case, the International Unions are allowed ten business days to present arguments.[5]

Hearings Panels

The Hearings Panels are responsible for the second

5. Ibid No. 2, pp. 502.

phase of the new settlement plan; that is, in the encouragement of new agreements and making of new decisions of record.

This panel is composed of a chairman, two disinterested general presidents appointed by the Executive Council of the Department, one contractor representative appointed by the Associated General Contractors, and one contractor representative appointed by the participating national specialty contractor associations.[6]

The Hearings Panels conduct hearings and attempt to reach a decision within ten days after the close of hearings.

Hearings are invoked by the Joint Board, or by a request filed by any one of the International Unions to the Joint Board for a national decision. The request is reviewed by the Joint Board to determine if it is part of the record. If it is not part of the record, the chairman calls a conference of the general presidents of international unions involved, to determine whether a national agreement is possible. If one is reached and the chairman attests to it, it becomes part of the record. If no agreement can be reached within six months, or cannot be reached at all, the dispute is referred to the Hear-

6. Ibid No. 1, pp. 2.

ings Panels. The decision of the Hearings Panels becomes a new national decision.

To date, there has been only one national decision so issued. However, the importance of the procedure is that it can be used to encourage the international unions to reach an agreement, since they prefer such an agreement to a national decision. A national decision may reverse the practice in some localities, and therefore, the losing union may not accept the decision of this agency. An agreement, on the other hand, involves an exchange of work at the local level and is based on negotiations by the internationals. Therefore, an agreement is more apt to be accepted locally than is a decision.

Compliance

Both unions and contractors are expected to comply with the decisions of the Joint Board. In the event of non-compliance, the Joint Board may invoke compliance procedures. The Joint Board first gives the party opportunity to show why it should not be found to be in non-compliance. If the party does not comply or show good cause, the Joint Board declares the party to be in non-compliance. When the Joint Board declares an international union to be in non-compliance, the Joint Board continues to hear cases involving the union; only decisions against the trade are issued. Favorable decisions are not issued. When contract-

ors are declared to be in non-compliance, the contractors' association is instructed to use its authority and influence to attain compliance. Withdrawal from an association does not release a contractor from the plan, since he is bound by his stipulation or agreement which he signed.

During 1956, the compliance procedure was involved only once and preliminary steps to invoke compliance were taken in several other situations.[7]

Local Settlement Plan

The Joint Board Plan provides that where a local plan of the settlement of jurisdictional disputes exists, which has been recognized by the Building and Construction Trades Department, that procedure shall be used first. Decisions arrived at by that procedure are to be applicable only to the particular job in question, but may be appealed directly to the Joint Board.

At the present time, the Department recognizes the plans of Chicago, Boston and New York. These plans were in existence and functioning satisfactorily when the Joint Board was created. For these reasons they were recognized as exceptions to the National Plan. Of these, however, the New York plan is unique in that the power to issue binding

7. "1956 Report of the National Joint Board for Settlement of Jurisdictional Disputes in the Building & Construction Industry," January, 1957, pp. 7.

decisions ultimately rests with the employers of the industry.[8]

Periodically, jurisdictional dispute plans are created in a local. The Department, to date, has refused to recognize such plans on the grounds that its goal is to establish national uniformity and that local plans lead to conflicting practices.[9] When protests as to the operations of local plans are received from the International Unions, the Department has ordered its local Building Trades Councils to discontinue their participation in such plans.

Accomplishments of the Joint Board

When the Joint Board was initially organized, it was considered that it would not last long. However, it has lasted over 10 years and is still in effect. During this time, it has survived through periods when attempts were made by powerful unions to boycott it by withdrawing. In fact, some of the unions withdrew or attempted to withdraw; such unions as the Electricians who withdrew on December 1, 1950, and returned five years later; the plumbers, who gave notice on November 14, 1952 of their intention to withdraw as of April 31, 1952 - this notice was never made effective, the notice of withdrawal was removed on September 4, 1953.

8. Ibid, pp. 8.

9. "Building Trades Will Cooperate," Business Week No. 150, June 14, 1952.

In all cases, however, they returned to the fold.

The following table no. 2, indicates the number of job decisions issued by the Joint Board from work stoppages and picket lines reported to the Joint Board, in the Period 1954-1957. However, the table understates the scope of the Board's activities in that only 50 percent of its action have been job decisions, and that it took other formal actions, as well.[10]

Table No. 2

Job Decisions Issued by the Joint Board

Year	Stoppages	Picket Lines	Job Decisions
1957	731	157	527
1956	806	101	354
1955	570	73	297
1954	511	91	266

Of greater importance has been the action of the Joint Board and its chairman in promoting the negotiation of national agreements between the various international unions. As of July 25, 1957, thirty-four national agreements have been recognized since the formation of the Joint Board. The following table no. 3 lists the agreements and the parties involved.[11]

10. Dunlop, J.T., "Progress of Jurisdictional Board Reviewed by Dunlop," Construction Labor Review, Vol. 97, C-8f July 31, 1957.

11. Ibid

Table No. 3

Jurisdictional Agreements Recognized Since 1948, by International Unions

International Unions		No. of Agreements
Asbestos Workers	-Boiler Makers	1
Asbestos Workers	-Bricklayers	1
Asbestos Workers	-Carpenters	1
Asbestos Workers	-Painters	1
Asbestos Workers	-Sheetmetal Workers	2
Boiler Makers	-Iron Workers	1
Boiler Makers	-Plumbers	2
Boiler Makers	-Sheetmetal Workers	1
Bricklayers	-Plumbers	1
Carpenters	-Electricians	1
Carpenters	-Iron Workers	3
Carpenters	-Laborers	1
Carpenters (*)	-Lathers	1
Electricians	-Iron Workers	2
Electricians	-Laborers	1
Elev. Const.	-Iron Workers	1
Oper. Engrs.	-Laborers	2
Iron Workers	-Painters	1
Iron Workers	-Plumbers	1
Iron Workers	-Sheetmetal Workers	3
Laborers	-Plumbers	1
Lathers	-Sheetmetal Workers	1
Painters	-Plasterers	1
Painters	-Plumbers	2
Plumbers	-Sheetmetal Workers	1
	total	34

(*) This agreement was cancelled by the Lathers on Oct. 14, 1955.

The success of the Joint Board can be attributed to one important factor. Initially, the Board was held together by the threat of action by the National Labor Relations Board under Section 8 (b) (4) (D) and 10 (k).[12] The unions feared the implications of the NLRB decisions which ruled that an employer is free to make work assign-

12. See Chapter V for discussion of NLRB.

ments provided he conforms to a NLRB order or is bound by an agreement to assign certain work to members of a particular union.

Gradually, the decisions and policies of the Joint Board have caused the construction industry to rely more and more on precedent and compromise. Now the Joint Board is accepted on the basis of its accomplishments.

The Joint Board plan meets the requirements for accommodating of jurisdictional disputes in that it recognizes the concept of job ownership and provides a method for issuing certificates of title, either by award or agreement. However, awards must be issued promptly, since one of the causes of jurisdictional disputes and strikes is the limited duration of disputed work on construction projects and an effective method must exist for the enforcement of awards. Here, the plan must resort to the NLRB for enforcement action.[13]

Summary

The first Joint Board plan had two boards, the Board of Trustees and the Joint Board. When a dispute occurred, it first went to the Board of Trustees, which determined if the issue was covered by the national agreements or decisions. The Joint Board's function was to extend the num-

13. Dunlop, John T. and Hill, Arthur D., The Wage Adjustment Board. Cambridge: Harvard Press, 1950, pp. 1.

ber of national agreements and decisions by means of mediation and arbitration. This plan was subsequently cancelled after encountering many difficulties.

The second Joint Board plan became effective October 1, 1949. The former Board of Trustees was given the name of the Joint Board and was authorized to issue job decisions. The function of the former Joint Board was assumed by separate Hearings Panels, with limitations placed upon it power to make national decisions.

The Joint Board survived withdrawals by individual unions to settle thousands of disputes. Of greater importance, the plan has promoted the negotiation of approximately thirty-four jurisdictional agreements.

The initial success of the Joint Board plan is attributed to the threat of action by the NLRB. The current success is attributed to an acceptance by the parties of the Joint Board on its own merits.

The Joint Board plan meets the necessary criteria for a method of accommodating jurisdictional disputes in that it recognizes the concept of job ownership and provides a method for issuing certificates of title, either by award or agreement.

The Joint Board, however, lacks means for forcing or enforcing its awards and must look to the NLRB for action.

CHAPTER V

LEGISLATION AND THE INDUSTRY'S ATTEMPTS TO PROVIDE A METHOD FOR SETTLEMENT OF JURISDICTIONAL DISPUTES

The National Building Trades Council (1897)

The National Building Trades Council[1] was formed by a group of local building trades councils in 1897, outside the AF of L, to provide a method for the adjustment of disputes and prevention of overlapping claims. The national unions, local trades councils, and unaffiliated local unions were required to submit a statement of jurisdictional claims. Once the Council recognized these claims, no other unions would be conceded similar claims. It was intended to eliminate the jurisdictional fights among the unions of the Building Trades.

The plan provided that the unions involved would make every attempt to solve the disputes without involving the employer or stopping work. This council, however, was structurally weak because each affiliate had one vote which allowed them to always outvote national unions. In addition, the council did not seek the cooperation of the national unions when dealing with their locals. Therefore, the national unions did not strongly support the council.

1. Haber, William, Industrial Relations in the Building Industry. Cambridge: Harvard University Press, 1930, pp. 175f, 331-334.

Accordingly, the council collapsed. But the AF of L did regard the council as a dual organization and eventually urged that the national building trades unions form an organization within the AF of L.

Structural Building Trades Alliance (1904)

Nine leading trades that had not supported the council formed the Structural Building Trades Alliance in 1904.[2] The new organization, again formed outside the AF of L, had as its purpose the elimination of dual unions and the prevention of new unions that might come into being as a result of technological change which would then challenge the existence of the basic crafts. The Alliance was also not supported by the smaller unions, who were afraid of being eliminated or by the AF of L.

The Alliance failed, about 1906, because of difficulty of enforcing its rules on its member national unions and local councils. Also, opposition from about eight national unions and local councils, who were denied membership and from the AF of L pressure to form a building trades department within the AF of L.

The Building Trades Department (1908)

The AF of L with the help of the Structural Building Trades Alliance, established the Building Trades Department

2. Ibid No. 1, pp. 335.

of the AF of L at the 1907 convention. The Department was officially organized February 10, 1908, and after a reorganization in 1937, the name was changed to Building and Construction Trades Department.

Membership was made compulsory for all affiliates of the AF of L employed in the building industry. The voting was a modified form of proportional representation based on the membership of the affiliated unions. Originally, local and state councils were not given the right to vote but were given one vote each in the Constitution of the Department which was adopted August 5, 1957. The purpose of the Department was to extend union organization in the building industry and to settle jurisdictional disputes.[3] The method for settling disputes was patterned after that of the AF of L. The disputing international unions had ninety days to settle the dispute by conference. If the dispute was not settled, it was then heard by the executive board of the Department. If the dispute still was not settled, it was referred to the conventions of the Department. The award made by the conventions was final and binding upon all affiliated organizations. However, there existed no method of enforcing awards.

This procedure was effective in eliminating dual unions but ineffective in settling on the job jurisdictional

3. Ibid No. 1, pp. 336.

disputes. In an attempt to eliminate strikes and work stoppages, the 1911 convention established a Board of Arbitration to be composed of three men. Each contending party selected a representative, and the president of the Department selected the third. The decision of the Board was to be binding and no strikes were allowed, pending an announcement of the Board's decision. All decisions of the Board could be appealed to the convention of the Department. In 1917, the Department transferred all the power of the Board to its president.

The Board method of settlement made a significant contribution, but the enforcement machinery was ineffective.

The National Board for Jurisdictional Awards (1919-1927)

During World War I, due to the high demand for labor and observance of the no strike pledge, jurisdictional disputes subsided. The industry desired to continue the principles of joint relations practical during the war and to gain wider public acceptance. As a result of a proposal from the American Institute of Architects, the Department established the National Board for Jurisdictional Awards in 1919.[4]

The Board's power was limited to the settlement of jurisdictional disputes between unions and employers. The

4. Ibid No. 1, pp. 178-90.

nine member Board was composed of three international union officials selected by the Department, two representatives chosen by the Associated General Contractors, and one member each from the American Institute of Architects, the American Engineers Institute, and the National Building Trades Employers Association. This was the first time that the AF of L allowed employers to participate in the settlement of jurisdictional disputes.[5]

The Board's procedure was that a two-thirds vote of the Board was necessary for a decision, which was effective immediately. Any interested party could present evidence at a hearing, and the Board could call expert witnesses. Decisions could be reconsidered only if six of the nine members agreed. However, any member of the Board was empowered to interpret its decisions, subject to review by the entire Board. When a dispute arose, the employer had the right to assign the work as he saw fit, pending an award by the Board. Strikes pending decisions were prohibited. To strengthen the enforcement procedure, it was provided that local organizations, which refused to comply with the awards, were to be suspended from their international organization, and the job would be manned by the international. Non-compliance by the employers also

5. Dunlop, John T., Jurisdictional Disputes, Proceedings of the New York University Second Annual Conference on Labor. New York: Mathew Bender and Company, 1949, pp. 495.

resulted in suspension. As a method of prevention, it was urged that the jurisdiction of new materials and methods be alloted by the Board before being assigned to any trade, providing that six of the members could agree that the subject had not been previously assigned.

In the first seven years, the Board rendered more than 100 jurisdictional decisions, many of which settled longstanding disputes.

However, many problems existed. In 1920, an adverse decision caused the Carpenters to withdraw from the Board, which resulted in their suspension from the Department.[6] To support this position, the Department in 1922, asked the member employers to stipulate in their contracts that Board dicisions would be observed and to refuse employment to members of any local union that refused to accept the Board's awards. The Architects, Engineers, and General Contractors Associations agreed. Individual employers, however, sometimes refused to adopt the awards for fear of antagonizing powerful unions. Further weakening occurred when the Architects Association endorsed the open shop in 1922.

In 1927, during a move to strengthen its powers, the Board collapsed. The Board had recommended: (1) that the

6. Dunlop, op. cit., pp. 496.

members of the Architects and Engineers societies should stipulate in all specifications and contracts drawn up by them that the work should be done in accordance with the Board's decisions, (2) that employers should require their subcontractors to follow the awards, and (3) that each member union in the Department should instruct its locals not to work with any locals of any union refusing to abide by Board awards. This recommendation was directed against the Carpenters, who took the position that they would reaffiliate, providing that the decisions affecting them be eliminated from the record. In 1927, the Department made its choice. It admitted the Carpenters and withdrew from the Board. The Department did, however, decide to continue in effect all the decisions of the Board, except those affecting the Carpenters. These decisions remain today as the largest number of decisions of record that the industry observes. From 1927 to 1930, disputes were settled by the Department as they had been prior to the creation of the Board.

The Board of Trade Claims (1930-1934)

The Board of Trade Claims was established in 1930.[7] The membership of the Board was the Executive Council of the Department and an equal number from the association.

7. Millis, Harry A. and Montgomery, Royal E., Organized Labor. New York: McGraw Hill, 1945, pp. 293-95.

The function of the Board was not to arbitrate, but to formulate the question to be arbitrated. To settle a dispute, the parties to the dispute each chose an arbitrator, and the arbitrators chose an umpire, who rendered the decision. If the Board accepted the decision, the award was approved; if not accepted, it was returned to the arbitrators.

This Board was weak because it lacked enforcement machinery and also, because three major unions (the Carpenters, the Electricians, and the Bricklayers) withdrew from the Department. The Board remained in effect until the passage of the National Industrial Recovery Act and the creation of its many Boards.

National Industrial Recovery Act. (1934)

Under the National Industrial Recovery Act (NRA) construction code, the National Planning and Adjustment Board was established to make provisions for the settlement of jurisdictional disputes. The president of the Building Trades Department and the Chairman of the National Planning and Adjustment Board made up the committee to judge disputes. If they were unable to reach an agreement, the members were authorized to select a third person and then vote. The result of the voting was binding until a final decision was given by the National Jurisdictional Awards Board who were composed of three impartial persons.

The machinery operated until the codes were declared invalid on May 27, 1935 and the Department reverted to settlement of disputes within the Department.[8]

The Referee System (1936)

The Carpenters, the Bricklayers, and the Electricians rejoined the Department six months prior to the 1934 convention. The 1934 convention, however, refused to seat these unions, and the dispute went to the AF of L, which declared the 1934 convention void and ordered a special convention. The special convention resulted in two departments - the triple alliance and three other unions versus the old Department affiliates. This led to litigation, and this split remained until the 1935 convention set up a series of conferences that paved the way for a new department. This department was created at a special convention in March, 1936. A part of the reorganization plan provided for an outside referee to settle disputes. The selected referee was a man named John A. Lapp and this plan began to handle cases as of January 1, 1937.[9]

Under the Referee System, the president of the Department rendered decisions on jurisdictional questions. His decisions were final and binding on the particular job at

8. Ibid No. 7, pp. 294.

9. Cummins, E.E. and De Vyver, Frank T., The Labor Problem in the United States. New York: Van Nostrand Company, 1947, pp. 180-182.

which the dispute originated. The referee acted only on questions appealed to him by the international unions. The decisions of the referee constituted a new national rule.

The Executive Council of the Department, over the protest of the Carpenters, also created a plan for local arbitration boards composed of unions and employers in equal number. The local board was required to meet within forty-eight hours after the dispute occurred and was also required to give written decision within the next forty-eight hours.

The local board upon receipt of the dispute was to refer it to the Department to ascertain if the matter in dispute has already been nationally determined. There were to be no strikes or lockouts during the ninety-six hour period. If the decision of the local board was not complied with within twenty-four hours, the employer was free to utilize any union craftsmen for other trades whom he considered qualified. It was mandatory that these craftsmen perform the work. The local decision was binding pending review by the referee upon appeal by an international.

Such local arbitration system developed in many cities until 1938 when, due to protests from the Carpenters,

the action recognizing local boards was rescinded except in New York, Boston, Chicago and Peoria. As a result, the work was thrown back to the Department. This, plus the non-observance of the procedure, rendered the Referee System ineffectual. The Referee System was finally suspended by the Department on July 9, 1947.

State Legislation

A number of states passed legislation containing provisions against both representation and work assignment jurisdictional strikes. The pattern of the legislation is that jurisdictional strikes are outlawed and are unfair labor practices or subject to injunctive action or both. The exceptions are the Massachusetts statute, which does not outlaw jurisdictional strikes but provides injunctive relief when one party fails to comply with an arbitration award; and also the Minnesota statute, which provides for arbitration of jurisdictional disputes. However, state laws have seldom been utilized and the only labor relations legislation pertaining to jurisdictional disputes is the Taft-Hartley Act, which will also be reviewed in this thesis.

Federal Antitrust Legislation

During the construction of a brewing facilities, a jurisdictional dispute arose between the Carpenters and the Machinists over the installation of certain machinery.

A strike was also called by the Carpenters which led to their prosecution as a criminal combination and conspiracy in restraint of trade within the meaning of the Sherman Act.[10]

However, the Supreme Court held that this jurisdictional Strike was not a violation of the Sherman Act and that all union self-help conduct specified in the concluding clause of Section 20, as well as Section 4 of the Norris-LaGuardia Act, was removed from the Sherman Act. Such exemption was limited to situations where a union acts in its self interest and does not combine with non labor group. Therefore, the federal antitrust legislation does not apply to jurisdictional disputes as long as the union has not combined with non labor groups.

Labor Management Relations Act (1947).

The growth of organized labor, the demand for an equalization of the Wagner Act, and the post war wave of strikes were among the forces that resulted in the passage of the Labor Management Relations Act, otherwise known as the Taft-Hartley Act or the National Labor Relations Act of 1947. The provisions regarding jurisdictional strikes

10. Ibid No. 9, pp. 181-82.
Also, United States vs Hutcheson, 312 U.S. 219 (1941).

11. Millis, H.A., and Brown, E.C., From the Wagner Act to Taft-Hartley. Chicago: University of Chicago Press, 1950, pp. 5.

were a by-product of shift in national labor relations policy. The following are some of the particular forces and proposals that resulted in the jurisdictional dispute provisions of the Taft-Hartley Act.[11]

President Truman in his January 6, 1947, State of the Union Message requested labor legislation. His labor proposals were subsequently sponsored in both houses, in addition to many other labor bills. On the first day, January 3, 1947, seventeen bills were introduced, fifteen more in the following week, and by the end of February, a total of sixty-five bills were introduced in Congress.[12]

During the Labor-Management Conference of 1945, the problem of jurisdictional conflict was debated, Management representatives questioned labor's traditional "let us solve it" approach and suggested legislation.

During the hearings prior to the passage of the Act, Congress heard a variety of proposals regarding the problem of jurisdictional conflict. Representatives of the AF of L and of the CIO took the position that the problem could not be successfully handled through legislation. The general pattern was that everyone opposed jurisdictional strikes, but few offered constructive proposals. From

11. Millis, H.A. and Brown, E.C., From the Wagner Act to Taft-Hartley. Chicago: University of Chicago Press, 1950, pp. 5.

12. Fitch, J.A., "New Congress and the Unions," 36 Survey Graphic 231, 1947.

this testimony, the House and the Senate developed different approaches to this problem.

The House, despite special hearings held in New Jersey, [13] which presented the problems of overlapping jurisdictional claims, imperialistic unions, and enforcement, failed to offer a means of accommodating jurisdictional conflict. The Hartley bill, as it passed the House, made jurisdictional strikes unlawful, concerted activities subject to damage suits, private injunction, and antitrust legislation.

During the Senate hearings, [14] Senator Morse developed a plan that made a jurisdictional strike an unfair labor practice, and gave the NLRB discretionary power to petition for injunctive relief, and also provided that the NLRB could arbitrate the dispute unless the parties adjusted or agreed upon methods for the voluntary adjustment of the dispute.

The Taft bill, as reported from the Senate Committee on Labor and Public Welfare, contained the provisions of the Morse bill except that the jurisdictional strikes were differently defined, and that an arbitration award had the

13. National Labor Relations Board, "Legislative History of the Labor-Management Relations Act, 1947," Vol. 1, Washington, Government Printing Office, 1948, pp. 42f.

14. Ibid

status of a final order of the NLRB. In the debate prior to the passage of the Act, provisions were added to the Taft bill that made jurisdictional strikes, subject to damage suits.[15]

The Conference Committee deleted the authority of the NLRB to appoint an arbitrator to settle jurisdictional strikes and the Senate passed the Compromise bill, which had also been passed earlier by the House.

President Truman vetoed the Compromise bill, but Congress overrode the veto and on June 23, 1947, the Senate passed into law the Labor-Management Relations Act of 1947.[16]

Prior to the passage of this Act, jurisdictional disputes were a thorn in the side of employers who were caught in the middle of a dispute in which they had no interest or could exercise control. However, the Taft-Hartley Act contained Sections 8 (8) (b) (4) (c) and (d) which made jurisdictional strikes an unfair labor practice.[17]

Summary

The many boards and panels created within the construction industry represented honest attempts to provide

15. Ibid No. 13, pp. 314f.

16. Ibid, pp. 386.

17. Mueller, S.J., Labor Law and Legislation. Cinn., Ohio South Western Publishing Co., 2nd edition, 1956, pp. 247.

orderly means for the settlement of jurisdictional disputes. Their failure stemmed from the lack of effective means to enforce awards, especially awards against the large unions of the Department. If a system did not favor the large unions, they attained their jurisdictional ends by economic means. If a system did favor the large unions, the smaller unions avoided the settlement plan in favor of economic action.

All attempts made prior to the passage of the Taft-Hartley Act have failed because they lacked enforcement methods. It can be concluded that the only legislation applicable is the Taft-Hartley Act.

The Taft-Hartley Act provides for discretionary injunctions, determination by the NLRB, unfair labor practices proceedings and damage suits by employers as solutions of the problem of jurisdictional conflicts.

CHAPTER VI

CONCLUSION

Many boards and panels have been created within the construction industry to provide a method to accommodate jurisdictional disputes and strikes. All attempts prior to the passage of the Taft-Hartley Act of 1947 failed because of a lack of an effective method of enforcing jurisdictional awards.

Several states have laws that contain provisions outlawing jurisdictional strikes. However, these laws have seldom been utilized. The federal antitrust legislation does not apply to jurisdictional conflicts so long as the union does not combine with non-labor groups to restrain trade. Therefore, the only legislation with any real application to the problem of jurisdictional disputes is the Taft-Hartley Act.

One of the important findings of this study is that the most effective manner of accommodating jurisdictional disputes within the construction industry is to combine the injunctive and enforcement powers of the National Labor Relations Board with the arbitration and mediation process of the National Joint Board for the Settlement of Jurisdictional Disputes. The Taft-Hartley Act should be administered so as to strengthen the Joint Board.

The Joint Board meets the necessary criteria for the method of accommodating jurisdictional disputes in that it recognizes the job ownership concept and provides a method of issuing certificates of title, either by award or agreement of (1) providing a method of settling both jurisdictional disputes and strikes; (2) it acts promptly, and speed is important to prevent disputes from becoming strikes; (3) its determinations are made by both management and union representatives; (4) it combines a case approach - job decisions - with the development of uniform jurisdictional agreement; and (5) it provides for the settlement of jurisdictional conflict without impairment of the technological change, by allowing the employer to decide what process shall be used and confines its determinations to what craft shall be granted jurisdiction over the process.

The Joint Board, however, lacks means for enforcing its awards and therefore must look to the NLRB for action.

The Taft-Hartley Act, if properly administered can provide the enforcement procedures necessary for the effective adjustment of jurisdictional disputes by the construction industry. It provides for discretionary injunctions, determinations by the NLRB, unfair labor practice proceedings and damage suits by employers as solutions to the problem of jurisdictional conflicts.

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Dear Dominick:

This letter will serve as a review and evaluation of your thesis entitled "Jurisdictional Disputes Within The Construction Industry" which, as I understand, is a requirement for graduate work undertaken by you.

Your paper exhibits fine chronological and concise presentation, and affords the layman a thorough understanding of the problem. I concur in that the National Joint Board is the most practical implement to dispense remedy and relief in conjunction with jurisdictional disputes.

Your conclusion that the Taft-Hartley Act and its injunctive and enforcement powers must be used in conjunction with the National Joint Board is certainly the most efficient accommodation for the problems depicted herein.

In summation, I would like to say that your thesis presented the problem in a most logical and thorough manner, and the solution you propose is not only satisfactory, but very practical.

Very truly yours,

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Benedict Torcivia
Vice-President

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Dear Dominick,

Please allow me to express my appreciation for the opportunity of reading your thesis "Jurisdictional Disputes Within The Construction Industry". The work indicates to me that you have a thorough understanding of this complicated subject.

Your background presentation and analyses follow a logical pattern and lead to logical conclusions. The development of the history of this subject and its present effects on the industry seem to be well recognized. Your evaluation of this, one of the few remaining difficult-to-resolve problems in our industry accurately reflects the conditions which we find in our day-to-day operations.

I would like to congratulate you on a well thought out and presented paper.

Sincerely,

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Robert J. Gates
Labor Relations Repr.

RJG/ds