STATEMENT BY SENATOR STROM THURMOND (D-SC) BEFORE THE LABOR SUBCOMMITTEE OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE IN OPPOSITION TO S. 2643 TO PERMIT COMMON SITUS PICKETING, JUNE 28, 1960.

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

Although I am convinced that S. 2643 is unwise legislation from any standpoint, particularly in that it singles out one type of industry for specialized treatment, and I would oppose it should it be reported to the Senate floor, I determined that I should go further and testify before your committee because of my conviction that this bill would be highly detrimental to the nation's defense effort.

Surely there is no need to remind Senators of the urgency and necessity of expediting our defense effort. Congress has repeatedly shown its concern over the mushrooming costs and the time delays in defense production and construction. Probably more different committees in the Congress have concerned themselves with defense procurement and supply practices than with any other one subject. It would be unthinkable at this point to enact legislation which would put another road block before our defense effort, both with regard to costs and as to time.

There can be no question but what this would be the effect of S. 2643 were it to be enacted. There is no need to deal in generalities; for there are specific cases to illustrate this assertion. I will cite a few of the many examples which are available.

A typical case is the secondary boycott strike which took place in 1958 at the Richards-Gebaur Air Force Base in Missouri. All of the construction at this Air Base was closed down when a local union of the Operating Engineers picketed every gate of the Air Force Base in an attempt to prevent the awarding of a subcontract for material
supplies to a supplier who was not organized. The District Court for the Western District of Missouri subsequently enabled the contractors to recommence work by issuing an injunction prohibiting the picketing which constituted a secondary boycott. In situations of this type, S. 2643 would remove the remedy of injunction by legalizing such common situs picketing. Had this bill been law in 1958 at the time of this strike, work could not have been resumed by means of an injunction and the construction work on this defense project would have been delayed indefinitely.

Next, consider what happened last fall at the Redstone Arsenal in Huntsville, Alabama. A number of prime contracts had been awarded by the Corps of Engineers for the construction of additional facilities at the Arsenal. Some of those executing prime contracts, such as the J. A. Jones Construction Company, operate on a union shop basis. One of the contractors awarded a contract was the Baroco Electric Company, which employs non-union labor. Baroco's contract was for the construction of substations and distribution lines. On August 22, 1958, the Electrician's union placed pickets at all gates leading to the Redstone Arsenal as a protest against the awarding of a contract to Baroco. The picketing itself was apparently intended to pressure the Corps of Engineers to cancel the contract with Baroco. For a period of 32 days the only work done at the Redstone Arsenal was that performed by Baroco Electric Company, since its employees did not belong to a union. The other employees on the job were union members and refused to cross the picket lines. The remaining contractors succeeded in securing an injunction against the union which limited the picketing to one gate. Even this did not completely solve the problem for the union employees still would not go back to work. It was not until September 24 that the electrical
union admitted defeat in their efforts to have the Baroco contract cancelled and withdrew their pickets. The injunction which was secured in this instance would not be possible should this legislation be enacted. This is but one of several similar instances that have occurred at Redstone Arsenal.

A similar situation took place at Cape Canaveral in 1956 when at this time, one of the subcontractors for the water distribution system was an open shop contractor, Constructors of Florida. The plumbers union picketed the entire job resulting in a work stoppage that lasted for 15 days.

Another example is the strike which occurred on April 18 at the Titan Missile Base at Larson Air Force Base in Kansas. The strike was by the Iron Workers union and all work at the plant was shut down, including that being performed by contractors with whom the unions had no dispute whatsoever. Under existing law, NLRB action ended the strike. If S. 2643 were enacted, such strikes could not be ended by NLRB action, and obviously the loss of time in this—one of the most imperative of our defense efforts—would have been delayed indefinitely. Similar situations have taken place at the Atlas Missile sites in Salina, and Topeka, Kansas.

At this very moment three missile bases near Cheyenne, Wyoming, all of which are under construction, have been closed down as a result of picketing by the Cement Finishers Union because one of the contractors desires to use ready-mix concrete materials from a commercial source with which the Cement Finishers Union has a dispute. Such picketing affects contractors who have no dispute whatsoever with the union. From the facts available to me, it appears that this strike is in clear violation of the "hot cargo" provision of the 1959
act and will in due time be ended by application to the NLRB. I might add at this point that such strikes at missile bases around Cheyenne have been frequent. The strike preceding this one was commenced on May 13 by the International Brotherhood of Electrical Workers and was ended around June 8 by virtue of NLRB action. Under the provisions of S. 2643, such strikes could not be terminated, for they would be legalized by virtue of this bill.

These examples sufficiently illustrate the overwhelming dangers of this bill. Its passage would seriously impair defense construction and this, if for no other, is sufficient reason that no further action should be taken on this bill whatsoever.

The procurement law for the Department of Defense is set out in Chapter 137 of Title 10 of the U.S. Code. The Armed Services Committee of the Senate is in the process of conducting a study of procurement policies and procedures as directed by section 4(a) of Public Law 86-89. I am the Chairman of the Subcommittee which has conducted the hearings in connection with this study. Although the law on procurement is in many respects quite flexible and contains rather broad latitudes as to the manner of awarding contracts by the Department of Defense, one thing is definite in the procurement law. There is no provision for the Department of Defense to award or to refuse to award a contract on the basis of whether or not the contractor employs union members or non-union members. The Defense Department has no control whatsoever over the labor policies of the contractor, and this is certainly as it should be. Should this bill be enacted, it should be quite clear, however, that any time a defense contract is awarded to a non-union or an open shop contractor, there is a strong probability of the development of a complete work
stoppage on the entire project. Even union contractors will recognize this factor, and will most certainly increase the amount of their bids to the Department of Defense in an effort to protect themselves against the contingencies of such work stoppages, over which they can have no control; for in no case will they be able to determine in advance of their bids whether another prime-contract, or some subcontract, will be awarded to a non-union or open shop contractor.

These factors are unquestionably known and fully appreciated by those who administer the letting of contracts by the Defense Department. I deeply regret that the Administration has seen fit to indorse this unwise proposal. Were not the Defense Department officials bound by the policy of the Administration, I feel quite certain that they would be expressing most violent opposition to this legislation.

I urge this subcommittee to make a thorough investigation of the types of strikes that are occurring and which will occur in the future at our defense bases and missile sites throughout the country before acting further on this legislation. The failure to make such an investigation would be to ignore the best interest of our national defense and the one most compelling facet of the proposed legislation. It is my personal conviction that S. 2643 would do irreparable harm to our defense effort, and I am convinced that if this committee will make an investigation of its effects on our preparedness projects, the committee will never favorably report the bill.

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