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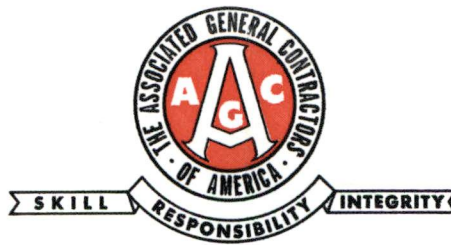
Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Speechwriting, White House Office of
Series: Snow, Tony, Files
Subseries: Subject File, 1988-1993

OA/ID Number: 13892
Folder ID Number: 13892-002

Folder Title:
AGC-Associated General Contractors, 4/19/91

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THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

1957 E Street, N.W. • Washington, D.C. 20006 • (202) 393-2040 • FAX (202) 347-4004

MARVIN M. BLACK, *President*

ROBINS H. JACKSON, *Senior Vice President*

BYRON L. FARRELL, *Vice President*

LAWRENCE J. MCGOUGH, *Treasurer*

HUBERT BEATTY, *Executive Vice President*

April 19, 1991

Ms. Bobbie Kilberg
Deputy Assistant to the President
for Public Liaison
The White House
Washington, DC 20500

Dear Ms. Kilberg:

Thank you very much for your wonderful assistance in arranging the White House briefing for AGC's Leadership Conference on April 15 and President Bush's participation.

As the enclosures show, our efforts are already underway to help secure approval of President Bush's Fast-Track approach to a U.S. - Mexico Free Trade Agreement. Our commitment is total. We will be following up with those in Congress determined to be in need of more encouragement to support the President's leadership initiative.

On some occasion where your own awesome schedule might facilitate this request, AGC would very much appreciate having you address one of our meetings. We like to think that we are both sophisticated and appreciative about dedicated people in public service and the real sacrifices they make so that government can work effectively and fairly. And yet, that process, in my personal view, is neither sufficiently understood or appreciated.

Those of us fortunate enough, despite its bumps and grinds, to work Inside the Beltway know about the pressures that the thousands of public interests bring to bear alike on appointed and elected officials. My hope would be that you might consider addressing AGC along the lines of a typical day or week in government service. My belief is that such an address would help secure understanding of the process of government that is not available through textbooks.

Some AGC meetings that would be available to you for such an address are:

- X • Our Midyear Meeting in St. Louis on September 27 - October 1 (anticipated attendance 1,500-1,800);
- AGC's Executive Committee meeting, Washington, D.C., January 8-10, 1992 (21 members plus spouses); and
- AGC's 1992 Convention in Dallas on February 27 - March 3, 1992 (3,000-5,000 attendees, dependent on economy).

Ms. Bobbie Kilberg
April 19, 1991
Page 2

Regardless of the meeting you would address, we would also want to publish, with your approval, your address in our monthly magazine, CONSTRUCTOR.

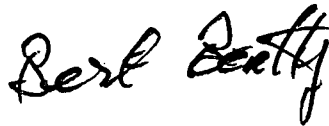
We would not expect, or seek, an early commitment, just as we would understand how emergencies can result in last minute cancellation. Alternatively, the same objective could be accomplished through an article or interview in CONSTRUCTOR. Its circulation is approximately 40,000 firms with "claimed" pass-along readership of about 120,000.

Interview
yes

I would appreciate an opportunity to try to persuade you on this subject some time when you get a little slack in your schedule.

Again, you have AGC's, and my, appreciation for your support in providing the White House briefing on April 15 and for President Bush's participation.

Sincerely,



Hubert Beatty
Executive Vice President

HB/mg

Enclosures

Cover story



Identical letters are being sent, individualized, to all Members of Congress

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HUBERT BEATTY, *Executive Vice President*

April 29, 1991

The Honorable Edward M. Kennedy
United States Senate
315 Senate Russell Office Building
Washington, DC 20510

Dear Senator Kennedy:

Because a U.S. - Mexico Free Trade Agreement will impact our industry, and its contributions to this nation's economic viability, we seek your support of the preparatory process that can result in free trade with our Southern neighbor, as is demonstrably working with our Northern neighbor, Canada.

Our request is for your support of a Fast-Track approach, which Congress has authorized in the past, so that President Bush can pursue a U.S. - Mexico Free Trade Agreement.

The Congress, after considerable and proper debate, supported President Bush in his course of action on Kuwait. In that instance, the President, and his supporters, would have been properly held accountable if the actions taken proved unsuccessful. Securing U.S. - Mexico Free Trade may be even more consequential.

The ultimate agreement, which Congress retains the power to accept or reject, may include items the construction industry may not like, want or may even oppose. However, we trust our government, and its structure, to serve the national interest, and we believe that interest can be best served by reposing trust in the Executive Branch to negotiate a proposed agreement.

We believe a U.S. - Mexico Free Trade Agreement will be in the best interests of our country because we will then have a neighbor more like our neighbor to the North. That stronger and healthier Mexico will have living standards that will automatically trigger a healthier environment throughout this Hemisphere.

Therefore, we respectfully urge your support of President Bush's request for a Fast-Track approach to a U.S. - Mexico Free Trade Agreement.

Sincerely,

Marvin M. Black
President



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HUBERT BEATTY, *Executive Vice President*

April 19, 1991

The President
The White House
Washington, DC 20500

Dear Mr. President:

Thank you very much for addressing AGC's chapter and national leaders on April 15.

With total confidence in your leadership, we are committing our full resources in support of your proper objective of a Fast-Track approach to a U.S. - Mexico Free Trade Agreement.

On a personal note, it is almost incomprehensible to me that there are any in our society who 1) miss the point that a strong Mexican economy can only help strengthen the U.S. economy; and 2) have the credentials to question whether the negotiators you appoint will not fully understand this nation's best interests.

You were right on Kuwait. You are right on Mexico. You will be right, too, when all trade barriers with Latin America are removed and the benefits of free and open market economies raise living standards throughout this Hemisphere.

Sincerely,

Marvin M. Black
President

MB/mg

NATIONAL

NEWSLETTER



SKILL RESPONSIBILITY INTEGRITY

Volume 43, Issue 10, April 29, 1991

Route to:

**A message from AGC President Marvin Black...
"Are you sharing this newsletter with those in
your company that need to see it?? If not, please
do so by using the *Route to* lines above."**

AGC's Support For President Bush On Fast-Track U.S.-Mexico Trade

Agreement - President Bush asked for AGC's support on this important issue when addressing AGC's Leadership Conference at the White House on April 15. The essence of AGC's follow-up action in letters to all members of Congress is (1) extend earned trust to the President, (2) improved economic conditions in Mexico and a standard of living that will rise accordingly will also improve the environment throughout the Hemisphere, and (3) the economies of the three nations will thrive when the U.S. has economic strength at its southern border that matches Canada's vitality.

AGC members are urged to now contact their Congressional representatives in support of President Bush's request for Congressional approval of a fast-track approach to U.S.-Mexico Free Trade. The agreement negotiated would, of course, be subject to an up or down vote by Congress.



Legislative Update - The **Striker Replacement** bill (H.R.5) has been reported out by the House Education and Labor Committee. The legislation prohibits companies from hiring permanent replacements for striking workers during economic strikes. The Committee agreed on an amendment offered by Rep. Pat Williams (D-MT) stating that the Striker Replacement legislation would not apply in non-union settings.

The Williams Amendment is perceived by some members of Congress as a "fix." However, it does not alter the legislation's basic end result of encouraging strikes. In reality, the amendment would give non-union employees great incentive to organize or agree to collective representation in order to prevent being permanently replaced. *continued on page 4*

AGC Past President Paul Emerick succumbs to heart attack -- page 3

Congressional leaders share insights on transportation funding with AGC leaders

Will Recession And Infrastructure Needs Combine For Massive New Investments? In conversations with key Democratic leaders at a Democratic Party dinner the night of April 24 in Washington, AGC officials were told of virtual Democratic unanimity on the need to again increase highway user fees. Most frequently mentioned was another 5-cent increase. Evident throughout the discussions was that AGC's decade-long campaign to secure massive and necessary infrastructure investment is now converging with increased fears of deeper recession and the need to address it... now.

AGC Testimony To Congress: Increase User Fees To Meet Highway Needs - As reported in the April 15 AGC National Newsletter, AGC Highway Division Chairman Robert Desjardins (Cianbro Corp.), testified April 18 before the Subcommittee on Surface Transportation on reauthorization of highway and transit programs. **In Mr. Desjardins' testimony, AGC called for a gas tax increase to help address the backlog of infrastructure needs and stimulate the economy by creating jobs.** AGC's testimony also made the following points:

- AGC supports Congressional efforts to increase highway spending through a draw down of the trust fund balance;
- AGC urges that the 2.5 cent gas tax lost to the general fund last year be dedicated to the Highway Trust Fund; and
- AGC opposes the continuation of the Disadvantaged Business Enterprise (DBE) program.

AGC Repeats Call For Increased Funding At Regional Highway Hearing - Past President Ben M. Hogan, Jr. testified on Monday, April 22, 1991 in Fort Smith, Arkansas at a field hearing held by the House Public Works and Transportation Committee. Mr. Hogan (Ben M. Hogan Company) repeated AGC's call for increased investment in the nation's transportation infrastructure as a needed step to economic recovery. The hearing is part of a series of regional field hearings held by the Committee to give people outside the "beltway" an opportunity to comment on highway program reauthorization.

Senate Highway Reauthorization Bill Released -

The draft legislation drastically shifts the emphasis of the Federal-aid highway program from construction and reconstruction to improving the "efficiency" of the entire existing surface transportation system. The Senate bill was introduced by Senators Burdick (D-ND), Moynihan (D-NY), Chafee (R-RI), Symms (R-ID) and Lautenberg (D-NJ).

Following are the proposed funding levels for the Federal-aid highway program under the proposals which have been advanced so far in the 102nd Congress (in billions):

	<u>FY 92</u>	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>	<u>FY 96</u>	<u>Total</u>
Administration	\$16.1	\$16.4	\$17.0	\$18.4	\$20.4	\$ 88.3
Senate	\$15.5	\$16.0	\$16.8	\$18.4	\$20.2	\$ 86.9
House Public Works Budget Proposal	\$21.0	\$24.5	\$24.5	\$24.5	\$24.5	\$119.00

Reps. Thomas Foley & Robert Roe Call For 5-Cent Gas Tax Increase -

House Speaker Thomas Foley (D-WA) and Rep. Robert Roe (D-NJ), House Public Works and Transportation Committee Chairman, told the AFL-CIO's Building and Construction Trades Department that the U.S. needs a 5-cent federal gasoline tax increase solely for transportation infrastructure improvements. Reps. Foley and Roe said the increase is needed to create new jobs and spur economic growth.

Rep. Foley stated that transportation improvements must be a high priority domestic issue if the U.S. intends to be a global competitor. He also called for the spending down of the Highway Trust Fund, but added that highway funding would still be insufficient to address the nation's highway and bridge problems.

Rep. Roe said that the infrastructure improvements which a 5-cent gas tax increase would fund could restore the production and manufacturing industries thus increasing the nation's economic competitiveness. "If we're rebuilding Kuwait, can't we raise a nickel for America?" Rep. Roe said. He stated that the nickel increase could create almost 250,000 jobs, but the money would need to be spent soon to counteract the decline in the economy.

Rep. Dan Rostenkowski (D-IL), House Ways and Means Committee Chairman, has also called for an increased gasoline tax... saying he would support a 10-cent per gallon gas tax increase divided between infrastructure improvements and deficit reduction.

AGC Testimony On Construction Safety and Health - Michael Timura

(Frank E. Downes Construction Company), Chairman of AGC's Safety & Health Committee, will testify on April 30 before the House Education and Labor Subcommittee On Safety and Health on the "Construction Safety, Health, and Education Improvement Act of 1991." AGC will testify that the proposed legislation (H.R. 1063) will not serve to improve construction safety and health because it deemphasizes employer/employee safety training and education; imposes needless recordkeeping requirements; mandates written safety and health programs to include specific requirements resulting in a "one size fits all" approach to improving safety; and does not address drug use and employee accountability.



In his testimony, Mr. Timura also states AGC's strong commitment to safety in the workplace and calls for the expansion of the Occupational Safety and Health Administration's education and training resources. AGC has dedicated the 90's as the Decade of Safety and Health.

OSHA/Industry Task Forces Meet

- AGC President Marvin Black was in Washington April 23 to participate with other construction association officers and Assistant Secretary of Labor Gerard Scannell in meetings of the Occupational Safety and Health Administration (OSHA)/Industry Task Forces on:

- Substance Abuse;
- Education and Training; and
- Employee Accountability.

President Black is Chairman of the Education and Training Task Force which is charged with improving employer and employee safety and health education and training.

Last fall, Assistant Secretary Scannell announced OSHA's intention of meeting with construction industry principals on a regular basis to achieve the following objectives: identify high priority safety and health problems in the construction industry; designate task forces to address the problems; and identify potential solutions so that OSHA can take the appropriate administrative steps to correct the problems.

See Newsletter addendum to order AGC's newest safety video... At The Top: Stairway & Ladder Safety

Paul Emerick...AGC Past President.

Mr. Emerick, who passed away April 24, was a leader in commercial, industrial, and institutional construction throughout the Pacific Northwest for more than 35 years. Mr. Emerick served as President of AGC of America in 1989 following approximately 20 years of AGC activism. His year of leadership at AGC was marked by significant improvements in construction training and education. Mr. Emerick led efforts to establish the Construction Industry Workforce Foundation and served as its president. He served on numerous AGC of America committees and chaired the Manpower & Training Committee and Contract Documents Coordinating Committee. He was active in AGC's Oregon-Columbia Chapter which honored him four times as National Committeeman. Mr. Emerick is survived by his wife, Hazel, daughters Diane Kunzel, Paula Peoples, Loree Anderson and Jenny Entenman, as well as his son, Steven Emerick. The family suggests that any remembrances of Mr. Emerick be made to: The Paul Emerick Vocational Training Foundation, c/o Oregon-Columbia Chapter, AGC, 9450 S.W. Commerce Circle, Wilsonville, OR 97070.



Paul King Appointed To OSHA

Committee - Paul King (Pizzagalli Construction Co.) Chairman of AGC's Safety Engineers Advisory Committee has been appointed to the Occupational Safety and Health Administration's Advisory Committee on Construction Safety and Health. The Committee discusses regulatory issues impacting construction safety and health and makes recommendations to the Department of Labor. The 2-year appointments to the Committee are made by the Secretary of Labor and approved by the White House.



AGC... Back At The White House

AGC Executive Vice President Hubert Beatty attended a Roosevelt Room meeting at the White House on April 24 with executives from approximately 20 other business interests.

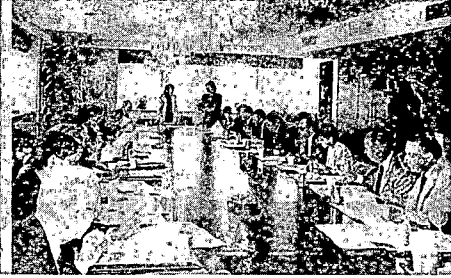
The Roosevelt Room meeting was also addressed by President Bush. Appreciation was expressed for AGC's support of President Bush's fast-track approach to a U.S.-Mexico free trade agreement. (See page 1)

AGC CHAPTER ACTIVISTS ...

Michigan Fly-In Successful Again -

Over 40 contractors from two of AGC's Michigan Chapters (Michigan Road Builders and Detroit Chapter) met with the Michigan Congressional delegation April 17 and 18 in

Washington, D.C. as part of the Chapters' annual "fly-in." The Chapters were briefed by AGC of America staff on civil



rights and striker replacement legislation, highway program and clean water act reauthorization and other key issues. The participants also met with officials from the General Services Administration and Federal Highway Administration.

More AGC Comments On ADA

Regulations - AGC provided a third set of comments on Title I of the Americans with Disabilities Act (ADA) to the Equal Employment Opportunity Commission (EEOC) on April 26. These comments emphasized that the EEOC must find practical solutions to the many problems created by the statute's complex provisions, including its requirement for the "reasonable accommodation" of disabled applicants and employees. AGC noted that construction jobsites are unique, that construction safety and health have to remain high priorities, and that Congress did not intend the ADA to interfere with necessary efforts to control the cost of workers compensation insurance.

In separate comments provided to the Justice Department on April 23, AGC urged the Department to make it clear that Congress intended to exempt the construction industry from all of Title III of the ADA, regarding access to "public accommodations" and "commercial facilities."

The Architectural Transportation Barriers and Compliance Board (ATBCB) had already proposed to exclude construction from the accessibility guidelines that Title III requires the Board to establish. AGC told the Justice Department that Congress also intended to exclude construction from the remainder of Title III.

Legislative Update from page 1

The House Public Works and Transportation Committee also reported out the Striker Replacement legislation. The House Energy and Commerce Committee will consider the bill in early May. In the Senate, the Labor & Human Resources Committee is awaiting final consideration of the legislation.

On April 24, the Senate Labor and Human Resources Committee approved the Family and Medical Leave Act (S.5) which is identical to the bill vetoed last year. Republicans on the Committee will attempt to defeat the bill during Senate floor consideration.

AGC Of Virginia Members Visit

Washington - Nearly 40 members of the AGC of Virginia were in Washington on April 23 to meet with their Congressional delegation about key legislative issues impacting construction including

civil rights, striker replacement, banking issues, and public works funding legislation. The chapter representatives were briefed at



AGC of America by senior staff members and hosted a Capitol Hill luncheon attended by members of the Virginia Congressional delegation.

AGC Building Division Participates In GSA Design-Build Focus Group

Meeting - William Choquette (Gilbane Building Co.), J. William Ernstom (Ernstom & Estes), Joseph H. Jarboe (The George Hyman Construction Co.), Thomas J. McGough (McGough Construction Co.), and James H. Stephens (Tribble and Stephens Co.) were in Washington, D.C. recently to participate in the General Services Administration (GSA) Design-Build Focus Group meeting. The meeting was held to review industry comments and GSA's response to its "Request for Proposal" guide on Design-Build.

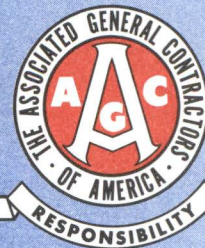
On a related subject, AGC's Project Delivery Systems Committee has finished revising its Design-Build Guidelines pamphlet and copies will be made available in the near future.

AGC Testimony On Energy And Water Development

- AGC is testifying to the Senate Committee on Appropriations Subcommittee on Energy and Water Development on fiscal year 1992 appropriations for energy and water programs. AGC's testimony supports the Administration's proposed \$200 million increase in funding for the Corps of Engineers' civil works construction program in 1992. AGC also expresses concern that the federal government's "no net less" wetlands program should not become a "no new growth" policy.

NATIONAL

NEWSLETTER



SKILL RESPONSIBILITY INTEGRITY

SPECIAL ADDENDUM to April 15, 1991 AGC National Newsletter --

AGC AT THE WHITE HOUSE

President Bush Again Addresses AGC Leadership at White House

Record Attendance at Annual Leadership Meeting of Chapter-National AGC Officers.

Transportation Secretary Skinner Also Captivates Audience at White House.

Kuwait Reconstruction Market Is \$30-\$50 Billion Less Than Originally Projected.

Senate Finance Committee Chairman Bentsen and Rep. Fawell Engage in Give and Take



AGC's 1991 Leadership Conference for Chapter Presidents, Vice Presidents and AGC of America Officers reached another plateau last week when the group was invited back to the White House for an address by President Bush for the second consecutive year. As he privately greeted AGC President Marvin M. Black, Senior Vice President Robins H. Jackson and AGC Executive Vice President Hubert Beatty before his address, President Bush said, "Well, here we are again this year."

In his White House speech to the AGC Leadership Conference, President Bush repeated the message of his video address to last month's AGC Convention by again thanking association members for their strong support on numerous issues. President Bush's widely televised remarks largely addressed the pending railroad strike, which he described as a threat to economic recovery.

Secretary of Transportation Sam Skinner at the White House with AGC for the second consecutive year.

⇒ Coverage of AGC's 1991 Leadership Conference at the White House -- Continued on page 2.

President Bush requested and received AGC support of a fast-track approach to a U.S.-Mexico Free Trade Agreement with emphasis on the new markets and opportunities that will be created by the establishment of barrier-free trading from the Yukon to the Yucatan. The President pointed out that Congress will have an opportunity for an up or down vote on the ultimate agreement but also made the point that the negotiating process would break down if those engaged in it had to secure point-by-point agreement by their Legislatures on the intricacies of negotiation.

Like President Bush, Transportation Secretary Sam Skinner addressed the AGC Leadership Conference in the White House for the second consecutive year. He captivated his audience with a combination of gentle humor and a strong case for a massive increase in transportation infrastructure investment as he cogently and dramatically explained the need for the Bush Administration's proposal to boost federal, state and local investment in transportation infrastructure. Emphasizing international competitiveness and productivity, Secretary Skinner illustrated the need for a transportation network worthy of the world's leading economy when he talked about "just-in-time" delivery of parts and material to the automotive industry, as an example. He said that inventory costs and production costs are lowered and productivity is increased when manufacturers, and their suppliers, know that supplies ordered in the morning can be delivered that afternoon for immediate assembly. Also reflecting his concern about the threatened railroad strike, Secretary Skinner said that such a strike would have a devastating economic impact.

Addressing the Kuwait reconstruction market, Assistant Secretary of Commerce, Thomas J. Duesterberg, rejected a widely publicized \$100 billion estimate of Kuwait's reconstruction needs and indicated that the real needs were probably in the \$50-\$70 billion range.



Sen. Bentsen with AGC of America officers

On that subject, an AGC official commented that the association has been swamped with inquiries from employers, employees and purveyors about access to construction opportunities in Kuwait. AGC's experience, to date, is that interest in this market overwhelmingly exceeds the construction opportunities that have yet surfaced while conjecture prevails and at a time when many Kuwaiti business interests have yet to return to their liberated country.

Senate Finance Committee Chairman Lloyd Bentsen (D-TX) addressed several subjects including the U.S.-Mexico Free Trade Agreement, health care cost containment and Subchapter S corporations. Following his address, Chairman Bentsen was questioned on subjects as varied as Wetlands and access to needed oil resources in the vast Arctic National Wildlife Refuge.

Rep. Harris W. Fawell (R-IL) urged attendees to recognize the dangers of Striker Replacement legislation and alleged Civil Rights legislation.

The emphasis that AGC of America now places on intensive exchange of information between AGC chapters and AGC of America was initiated in 1967 by then AGC President B.B. Armstrong, who regarded participation by Chapter Presidents and Vice Presidents in AGC of America activities as vital. In 1972, then



Assistant Secretary of Commerce Thomas J. Duesterberg addressed the Kuwait reconstruction market and stated that estimated construction needs are in the \$50-\$70 billion range... not the \$100 billion range so widely publicized earlier. Also on the dais were White House official Jeff Vogt (center) and AGC President Marvin Black.



Shown with Congressman Harris Fawell (R-IL) are (left to right): Erick Haglund, Security Building, Northern IL Bldg. Contr. Assn.; Joseph Scandrol, Scandrol Construction, Northern IL Bldg. Contr. Assn.; Leroy Tinsley, Wabash Asphalt, AGC of IL; James P. Bruner, Illinois Valley Paving, AGC of IL; Rep. Fawell; AGC Vice President Byron L. Farrell, Helmkamp Construction Co.; Howard Gallay, ACM Associates, Chicago Bldrs. Chapter; Todd Harris, J.C. Harris & Sons, Fox Valley Gen. Contr. Assn.; Glenn Lindsay, L.E. Lindsay Construction, Southern IL Bldrs. Assn.

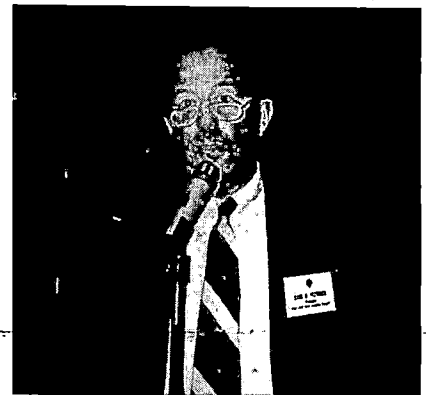
AGC President S. Peter Volpe suggested that the association conduct a series of meetings annually with Chapter Presidents and Vice Presidents, and this program got under way under the leadership of the late J.N. Match in 1975 when AGC Officers met with chapter leaders over a five-day period in Washington, D.C., St. Louis, Denver and San Francisco. These meetings were combined and moved to Washington, D.C. where President Reagan addressed the AGC leaders in 1985 at the White House followed by a similar meeting in 1986, also addressed by President Reagan at the White House.

AGC's successful efforts in 1987 to override President Reagan's veto of badly needed highway legislation kept AGC off the White House schedule in 1987, but that did not prevent President Reagan from inviting the AGC leaders to the White House during their 1988 Leadership Conference.

In 1990, on April 24, AGC was again honored by a White House briefing addressed by President Bush.

However, these meetings go far beyond Presidential or Congressional briefings and serve to facilitate open exchange of information on the management of the association and the development of its programs and policies at sessions where contractor-to-contractor discussions prevail. Subjects discussed this year included membership recruitment and retention, chapter operations, AGC of America and chapter accomplishments, workers' compensation and safety.

Several chapter officers, while expressing appreciation for the depth of the association's programs, also indicated that the association needs to do more to help ensure that members who do not have the opportunity to attend national meetings can become better acquainted with the association's services. In this regard, they suggested that AGC of America acquire the resources to send specialists to chapters on a more regular basis to help secure better understanding of the association's programs and even wider support for them.



Carl V. Petronio, Allied Bldrs, New York State Bldg. Chapter

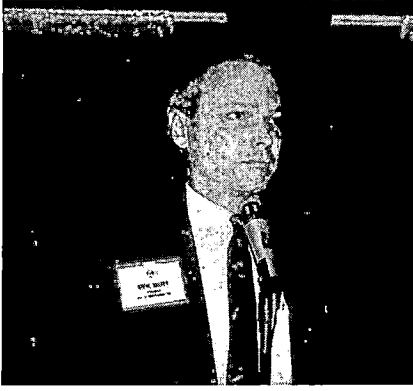


(Left to right): Ronald J. Gafford, Austin Commercial, Dallas Chapter; Steve Luebbehusen, JBM Builders, Fort Worth Chapter; Joe R. Walker, J.W. Bateson Co., Dallas Chapter; Larry Frymire, The Frymire Company, Fort Worth Chapter; Sen. Bentsen; Vic McNallie, Hensel Phelps Construction, Austin Chapter; Michael Novak, Contemporary Constructors, San Antonio Chapter; Paul Snider, C.P. Snider Construction, Texas Building Branch.



Robert Desjardins, Cianbro Corp., AGC of Maine.

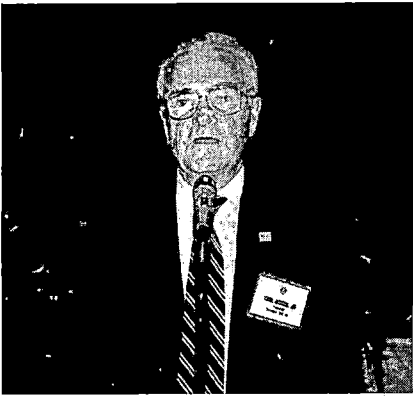
AGC at the White House... + Contractor-to-Contractor Communication



**Steve Helfer, Opus South Corp.,
AGC of Mid-Florida**



Thomas J. Folk, T. L. James & Co. Inc., Louisiana AGC



**Carl Woods Jr., C. C. Woods
Construction, Carolinas AGC**



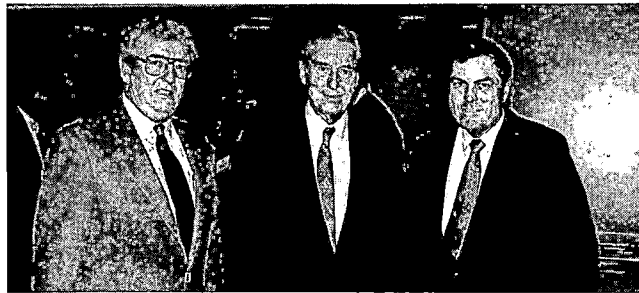
**Walt Gamble, Gamble and Pyritz
Construction, Oregon-Columbia
Chapter**



**Ralph Eggleston, Jaynes Corp.,
New Mexico Building Branch**



**John L. Tocci, Tocci Bldg. Corp.,
AGC of Massachusetts**



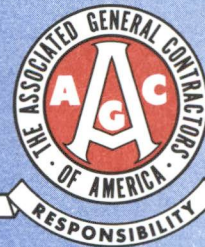
**(Left to right) Pete Hodgson, Hodgson Construction,
AGC of Calif.; Sen. Bentsen; and Dave Hawley, Kasler
Corp., AGC of Calif.**

**Chapter officers
shared in an open
forum discussion
with AGC of
America officers.**



NATIONAL

NEWSLETTER



SKILL RESPONSIBILITY INTEGRITY

Volume 43, Issue 9,
The Week of April 15, 1991

Route to: _____

AGC Meets With President Bush... Again



Secretary of Transportation Samuel Skinner and AGC President Marvin Black with President Bush.

This was the second consecutive year that the Annual AGC Leadership Conference has been addressed by the President of the United States at the White House... and the 5th time in the past 7 years. For complete news of the conference, please see the special addendum to this newsletter.

AGC Testimony On Military Construction Appropriations

AGC testimony to the House Appropriations Committee on fiscal year 1992 military construction appropriations: urged that the Administration's budget request of \$8.4 billion be enacted because of the importance of maintaining the nation's stock of military infrastructure; commended Congress for recent passage of legislation that requires DoD to lift the moratorium on military construction and again urged that the moratorium be lifted; recommended an exemption for military construction from the Section 1207 Program that sets aside 5 percent of all DoD procurement projects for small disadvantaged businesses (SDBs), because in the construction industry, SDB participation already exceeds the requirement; recommended an increase in the Davis-Bacon Act threshold from \$2,000 (in place since 1935) to a \$250,000 threshold, in the absence of Davis-Bacon Act repeal which AGC supports; and urged Congress to reject the DoD's proposed 1993 budget investment level for military construction and to increase that level to meet actual needs.

Update on Military Construction Moratorium -

- For military construction in Europe, Korea, Japan and domestic military bases subject to closing, military construction authorization must come from the Secretary of Defense.
- On other domestic military construction authorizations for construction can be provided by the individual services Secretaries.

The bottom line is that there is a slight loosening of the moratorium but the lifting of it for industry projects is concentrated in Washington, D.C.... not the local level. See Government Procurement Bulletin #91-1 to Chapters, 4/12/91.

Alleged "Civil Rights" and Real Special Preferences -- Pages 2-3 ➡

"Civil Rights" Proposals -- Real World Getting Inside the Beltway - For the past several days, the Washington Press (and other reporting) has been playing up negotiations between some large corporations and a Civil Rights Coalition and trying to give the impression that near unanimity exists on a resolution of the "debate." Reports have also surfaced that Senator Kennedy was delaying introduction of his 1991 "Civil Rights" proposal so that it might reflect such "unanimity." However, at press time reports are surfacing that some of the big corporations allegedly engaging in the "unanimity negotiations" have disengaged.

Other press reports increasingly reflect growing public and some political disenchantment with the entire subject because the majority of the American public is beginning to view the process as a further extension of special preferences. Increasingly, the effort this year to recast the Kennedy/Hawkins "Quota Bill" of last year as an effort to protect the rights of women lacks resonance.

A statement issued Thursday, April 18, by Peter Cockshaw, National Labor Analyst and Publisher, (*Cockshaw's Construction Labor News + Opinion*) on the "Civil Rights" issue was pungently to the point. He said, "I get calls from all over America. I talk with construction contractors at conventions across the length and breadth of this nation. They are smothered in litigation or threats of litigation. They have had it with special preference procurement quotas which the double-speak perpetrators of quotas cutely call "goals." Too many of them have also been "hosed" by OFCCP and Executive Order 11246, and they are not about to sign on to any version of currently proposed "Civil Rights" legislation. It is an understatement to say that they are furiously indignant. Here's my view of the subject: Too many of America's big corporations, some of which think they can cut a deal with the Ralph Neas Civil Rights' coalition, have long since learned to live with quotas, because too many of them, and their retinues of attorneys, can readily accommodate to quota requirements through their huge personnel offices. The real bones in their throats are their fears of huge, uncapped jury awards induced by tearful witnesses. But, it has to be remembered that construction contractors also have bones in their throats. Unlike the big corporations, they do not have floors full of lawyers to defend them.



"Just complying with present mandates of OFCCP, Executive Order 11246 and a host of special procurement quotas is a mindboggling, costly burden. The threat of more employment litigation via the so-called "Civil Rights Act" send employers into convulsions. That's because contractors know the minute they get involved in litigation, they've already lost! Contractors do not have capital to endure long court hassles. Thus, their only "defense" is to hire by quotas. But once employers resort to quotas, they become ensnared in a Catch 22 situation.

"By adhering to hiring-by-quotas mandated in this year's "Civil Rights" bill, contractors invite suits from blue collar America. When employees are denied job opportunities because of quotas based on race and sex -- not merit or qualifications -- they have a right to legal redress.

"Anyone who gives special preference to one citizen at the expense of another puts themselves at risk. That is Cockshaw's opinion, and I guarantee you it is the opinion of the no longer silent majority. Every recent survey we've seen reveals one central finding. Citizens polled believe civil rights leaders are more interested in special preferences than equal opportunity.

"Both middle class and blue collar voters now see pervasive reverse discrimination in the workplace. The proposed "Civil Rights Act" will further exacerbate unfair hiring/promotion practices and ignite another explosion in employment litigation."

AGC Testimony On Clean Water - Municipal Utilities Division Chairman A.E. Shull (A.E. Shull & Co., Tyler, Texas) testified before the Water Resources Subcommittee of the House Public Works and Transportation Committee on April 17. AGC's testimony stressed the need for the federal government to provide sufficient funds for states to capitalize their revolving loan funds to finance the construction of needed wastewater treatment facilities. AGC cited an EPA study that identified wastewater needs of \$83.5 billion and AGC mentioned an additional \$15.8 billion in needs identified by the states. The testimony mentioned an additional \$100 billion in needed construction to correct combined sewer overflow problems that are not included in the EPA study figures.



AGC Testimony On Surface Transportation - On April 18, 1991, Robert Desjardins (Cianbro Corp.), AGC Highway Division Chairman, testified before the Subcommittee on Surface Transportation on reauthorization of highway and transit programs. Mr. Desjardins made the following points:



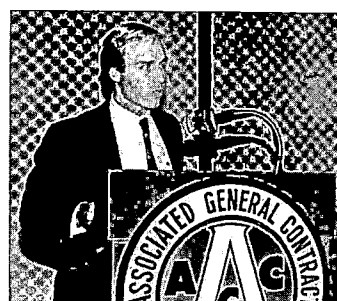
- Congress must act to stimulate the nation's economy and create jobs by increasing investment in our nation's highways;
- AGC supports Congressional efforts to increase highway spending through a draw down of the trust fund balance, recapturing the 2.5 cent gas tax lost to the general fund last year and an increase in highway user fees to address unmet highway needs; and
- AGC opposes the continuation of the Disadvantaged Business Enterprise (DBE) program.

On the subject of Disadvantaged Business Enterprise, ARTBA testified that it "supports a federal initiative for a program of assistance, but believes the current Disadvantaged Business Enterprise (DBE) program should be revised to ensure that it is aiding firms that are truly in need of assistance. A meaningful DBE program should adequately address management training, technical assistance, bonding and graduation requirements, among others. In addition to properly certifying disadvantaged firms, ARTBA believes the program should determine if participating firms have the capability to carry out the work they certify they can perform. By determining the capability of eligible firms, an effective DBE participation level can be established. ARTBA supports the language in the Administration bill that would continue a single-goal program."

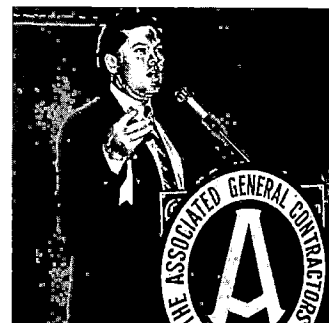
Infrastructure Symposium Held in Washington, D.C. - The National Association of Home Builders coordinated an April 8-9, 1991 infrastructure symposium in Washington, D.C., sponsored by more than 40 organizations. Among the featured speakers were Secretary of Transportation Samuel Skinner, Kitsap County Commissioner John Horsley, nationally-known economist David Aschauer, and Representative Beryl Anthony (D-AR). The symposium covered many subjects including federal, state and local government roles in infrastructure, public-private ventures, and infrastructure financing.



Transportation Secretary Samuel Skinner



Nationally-known economist David Aschauer



Kitsap County, Washington Commissioner John Horsley (former National Association of Counties President)

498,000 Construction Jobs Lost in 10 Months - According To AGC's March 1991 Economic Fact Sheet For The U.S. --

- Between May of 1990 and March of 1991 -- 498,000 jobs have been lost in the construction industry -- representing almost 10 percent of the industry's total employment.
- In February of 1991, the construction industry unemployment rate reached 21.4 percent, 8 percent higher than construction unemployment at the same time in 1990.
- Between December 1990 and March 1991, construction employment dropped by 195,000 jobs.

Helper Regulations... Apprenticeship Revisions....

Blocked - President Bush's April 10 signature on the Dire Emergency Supplemental Appropriations bill means that:

- The Department of Labor cannot spend any money to implement the Davis-Bacon helper regulations which the construction industry favored.
- The Department of Labor is denied funding to proceed with the issuance of apprenticeship revisions.

AGC's 34th James D. Marshall Course - AGC has scheduled the 34th James D. Marshall (JDM) Course for June 3 - 7, 1991 at AGC of America. The course is designed for chapter staff and provides opportunities to get to know their AGC of America colleagues during five days of intensive coverage of the association's programs and services. Details were sent to chapters in an April 16, 1991 mailing.

AGC-Basic Trades Committee



AGC's latest meeting with the Basic Trades was held in Bal Harbour, Florida, February 14, 1991. Seated from left to right are Francis W. Madigan, Jr., Chairman, AGC Collective Bargaining Committee and Co-Chairman, AGC-Basic Trades Committee; Frank Hanley, Jr., Operating Engineers' General President, and Co-Chairman, AGC-Basic Trades Committee; Robert Holton, Cement Masons' General President; and Sigurd Lucassen, Carpenters' General President. Also in the photo are AGC Vice President Byron Farrell and Past Treasurer Robert Fay. The next AGC-Basic Trades Committee meeting is scheduled for May 14th in Washington, D.C.

Presidential Award For AGC Past President John E. Healy, II

AGC Past President John E. Healy, II (1971) pictured with Secretary of Labor Lynn Martin and Rep. William F. Goodling (R-PA), ranking minority member of the House Education and Labor Committee -- receiving the U.S. Department of Labor's "Job Training Partnership Act" (JTPA) Presidential Award for Outstanding Private Sector Volunteer. Mr. Healy has served as Chairman of the Delaware State Job Training Coordinating Council where he was responsible for the initial organization of JTPA programs in Delaware.



Vermillion Named Executive Director of AGC of Virginia

Steven Vermillion has been named Executive Director of the AGC of Virginia. He was Assistant Executive Director of the Chapter since 1989. Steve is a former AGC of America staff member who also had extensive experience with the Michigan Chapter.



AGC CHAIRMEN OF THE YEAR -

At AGC's 1991 Convention last month, four of 68 national committee chairmen were named chairmen of the year and they are...



Paul King, Chairman, Safety Engineers Advisory Committee



Francis W. Madigan, Jr., Chairman, Collective Bargaining Committee



Louis Selig, Jr., Chairman, ACEC-AGC Joint Committee



Michael Timura, Chairman, Safety and Health Committee

Rebuild America Coalition Steering Committee Meets -

The Rebuild America Coalition Steering Committee met in Washington, D.C. on April 9. The meeting was chaired by Coalition Chairman, Mayor Maynard Jackson of Atlanta, Georgia. It was agreed that the Coalition must develop innovative strategies to elevate the status of infrastructure as a national agenda item. A task force was formed to assist the Coalition in marketing the infrastructure message. AGC President Marvin Black and Executive Vice President Hubert Beatty participated in the meeting.

AGC Congressional Testimony

Recent AGC Testimony (February-April)

- Impact of Federal Wetlands Policy
- Family and Medical Leave
- Civil Rights Act of 1991
- Striker Replacement Legislation
- Appropriations for Military Construction
- Reauthorization of the Clean Water Act
- Reauthorization of the Federal-aid Highway Program

Upcoming AGC Testimony (April)

- Construction Safety and Health Legislation

CONSTRUCTION NEWS RELEASE

April 17, 1991

Contact: Judy Short,
Director of Public Affairs;
Damian Hill, Associate Dir.
202/393-2040

CONSTRUCTION INDUSTRY GETS WHITE HOUSE ACCESS...AGAIN

- **President Bush Supported on Fast-Track Approach to U.S.-Mexico Free Trade Agreement**
- **Transportation Secretary Skinner Repeats Call for Massive Transportation Infrastructure Investment**
- **Commerce Official Indicates Kuwait Reconstruction Needs Substantially Less Than Earlier Reports**

Washington, D.C. -- For the second consecutive year, and the fifth time in seven years, the national and chapter leaders of the Associated General Contractors of America were addressed this week at the White House by the President of the United States and key administration officials.

The Associated General Contractors of America (AGC) is a national trade association of 33,000 industry firms including 8,000 general contracting firms, the vast majority of which are family-owned small businesses.

President Bush expressed his concern about the pending railroad strike and made it clear that such a strike could seriously impair economic recovery.



Associated General Contractors of America
1957 E St., N.W. ■ Washington, D.C. 20006 ■ 202/393-2040

The construction leaders quickly responded to President Bush's request for support of a fast-track approach to a U.S.-Mexico free trade agreement and agreed with President Bush that Congress can effectively exercise its authority by approving or rejecting the ultimate agreement.

Assistant Secretary of Commerce, Thomas J. Duesterberg, addressing the Kuwait reconstruction market, estimated construction needs in the \$50-\$70 billion range . . . not the \$100 billion range so widely publicized earlier. An AGC official commented, "The association has been swamped with inquiries from employers, employees and purveyors about access to construction opportunities in Kuwait. The reality is that the interest in this market overwhelmingly exceeds the construction opportunities that have surfaced to date in that market, where conjecture prevails and where many Kuwaiti business interests have yet to return to their country."

Transportation Secretary Sam Skinner who also addressed the AGC leaders at their April 24, 1990 meeting, cogently and dramatically explained the need for the Bush administration's proposal to boost federal, state and local investment in transportation infrastructure.

Emphasizing international competitiveness and productivity, Secretary Skinner illustrated the need for a transportation network worthy of the world's leading economy when he talked about "just-in-time" delivery of parts and material to the automotive industry as an example.

He said that inventory costs and production costs are lowered and productivity is increased when manufacturers and their suppliers know that supplies ordered in the morning by phone can be delivered that afternoon for immediate assembly.

Reflecting his concern about the threatened railroad strike, Secretary Skinner said that such a strike would have a devastating economic impact.

President Bush and Secretary Skinner thanked the AGC leaders for their past support on key issues and both reflected faith in America's basic strengths and optimism for a strong economic recovery.

Immediately prior to his White House address to the approximately 200 attendees, President Bush and Secretary Skinner met privately with AGC President Marvin M. Black, a building and industrial contractor based in Atlanta... AGC Senior Vice President Robins H. Jackson, a highway contractor from Waterloo, Iowa... and the association's Executive Vice President Hubert Beatty.

#

BOB STUMP
3d DISTRICT, ARIZONA

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(202) 225-4576

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Congress of the United States
House of Representatives
Washington, DC 20515

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DEFENSE POLICY PANEL

VETERANS' AFFAIRS COMMITTEE
RANKING MINORITY MEMBER
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS.
RANKING MINORITY MEMBER
SUBCOMMITTEE ON HOSPITALS
AND HEALTH CARE

April 19, 1991

J. Doug Pruitt
Sundt Corp
P.O. Box 20687
Phoenix, Arizona 85036

Dear Doug:

Thank you for your letter supporting the extension of "fast-track" procedures for Congressional review of trade agreements.

You can count on my support for maintaining the "fast-track" negotiating authority. The Administration should have the power to negotiate an agreement and submit it to Congress, as one package, for approval or rejection. It is essential to preserving our ability to successfully negotiate trade agreements that will reduce trade barriers and contribute to growth in the U.S..

Sincerely,



BOB STUMP
Member of Congress

BS:ds

April 19, 1991

The Honorable Paul Simon
U.S. Senate
Washington, DC 20510

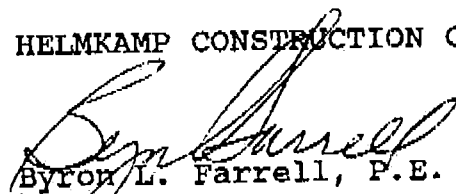
Dear Senator:

There will be a crucial vote to extend the Fast Track authorization. I hope you will be in favor of that extension. Without the Fast Track authority, I do not believe any free trade negotiations could ever be completed. These negotiations are so difficult and have so many interrelated clauses that subtle changes can totally change the meaning. The Fast Track method will still allow Congresses wishes to be included in the negotiations.

Thank you for your consideration.

Very truly yours,

HELMKAMP CONSTRUCTION CO.


Byron L. Farrell, P.E.
President

BLF/mlc

xc: President George Bush

April 19, 1991

The Honorable Alan Dixon
U.S. Senate
Washington, DC 20510

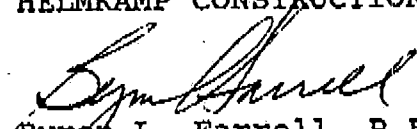
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Byron L. Farrell, P.E.
President

BLF/mlc

xc: President George Bush

H Helmkamp CONSTRUCTION CO.

NO. 1 HELMKAMP DRIVE
WOOD RIVER, ILLINOIS 62095
PHONE: 618/251-2600
FAX: 618/251-5380

April 19, 1991

The Honorable Jerry Costello
U.S. House of Representatives
Washington, DC 20515


Dear Jerry:

There will be a crucial vote to extend the Fast Track authorization. I hope you will be in favor of that extension. Without the Fast Track authority, I do not believe any free trade negotiations could ever be completed. These negotiations are so difficult and have so many interrelated clauses that subtle changes can totally change the meaning. The Fast Track method will still allow Congresses wishes to be included in the negotiations.

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President

BLF/mlc

xc: President George Bush



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(801) 489-5616 / FAX (801) 489-7653

April 17, 1991

The Honorable Jake Garn
The United States Senate
Washington, D.C. 20510

Dear Senator Garn:

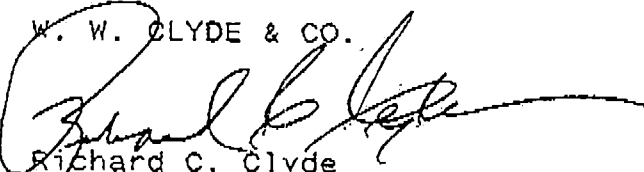
Our country's negative balance of trade with foreign nations is having a tremendous negative impact on our economy. We currently have an opportunity to do something about this growing negative balance of trade in a free trade agreement with our southern neighbors, Mexico. This agreement would lead to an increase in American goods and services being exported to Mexico.

However, to assure this trade agreement, President Bush needs your support of the "Fast Track" Approach to the United States-Mexico Free Trade Agreement.

I urgently request that you give our President this support.

Best regards,

W. W. CLYDE & CO.


Richard C. Clyde
President

RCC:1fc

Copy to: The Honorable George Bush
President of the United States
The White House
Washington, D.C. 20500

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April 17, 1991

The Honorable Orrin Hatch
The United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

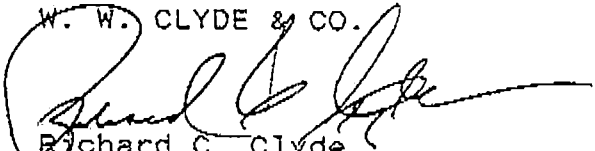
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(801) 489-5616 / FAX (801) 489-7653

April 17, 1991

The Honorable D. Wayne Owens
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Owens:

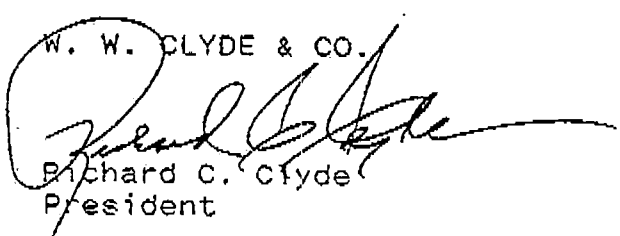
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W. W. CLYDE & CO.


Richard C. Clyde
President

RCC:lfc

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President of the United States
The White House
Washington, D.C. 20500

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April 17, 1991

The Honorable William H. Orton
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Orton:

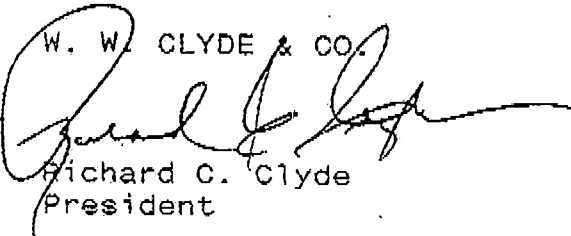
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W. W. CLYDE & CO.


Richard C. Clyde
President

RCC:lfc

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President of the United States
The White House
Washington, D.C. 20500



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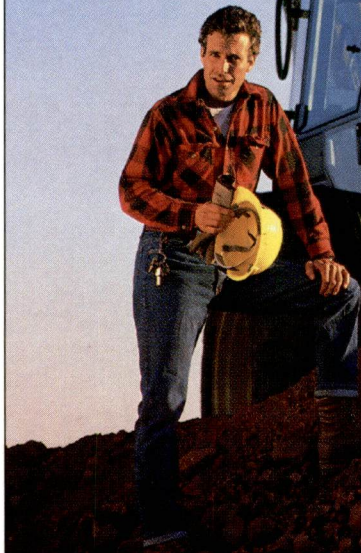
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AGC PRESIDENT MARVIN BLACK

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- **OVERCOMING THE LITIGATION CRISIS**
- **COOPERATION MUST REPLACE CONFRONTATION**

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But that’s only
part of the story.”**



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- **Shift on-the-go four-wheel drive.**
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controls. Plus a choice of center pivot or side-shift backhoes with models 555C and 655C.

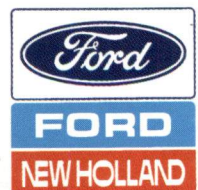
- **More production and less maintenance.** Long lube intervals. O-ring face seal fittings for a drier machine.
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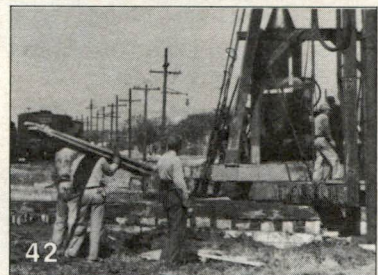
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APRIL 1991

Vol. LXXIII, No. 4

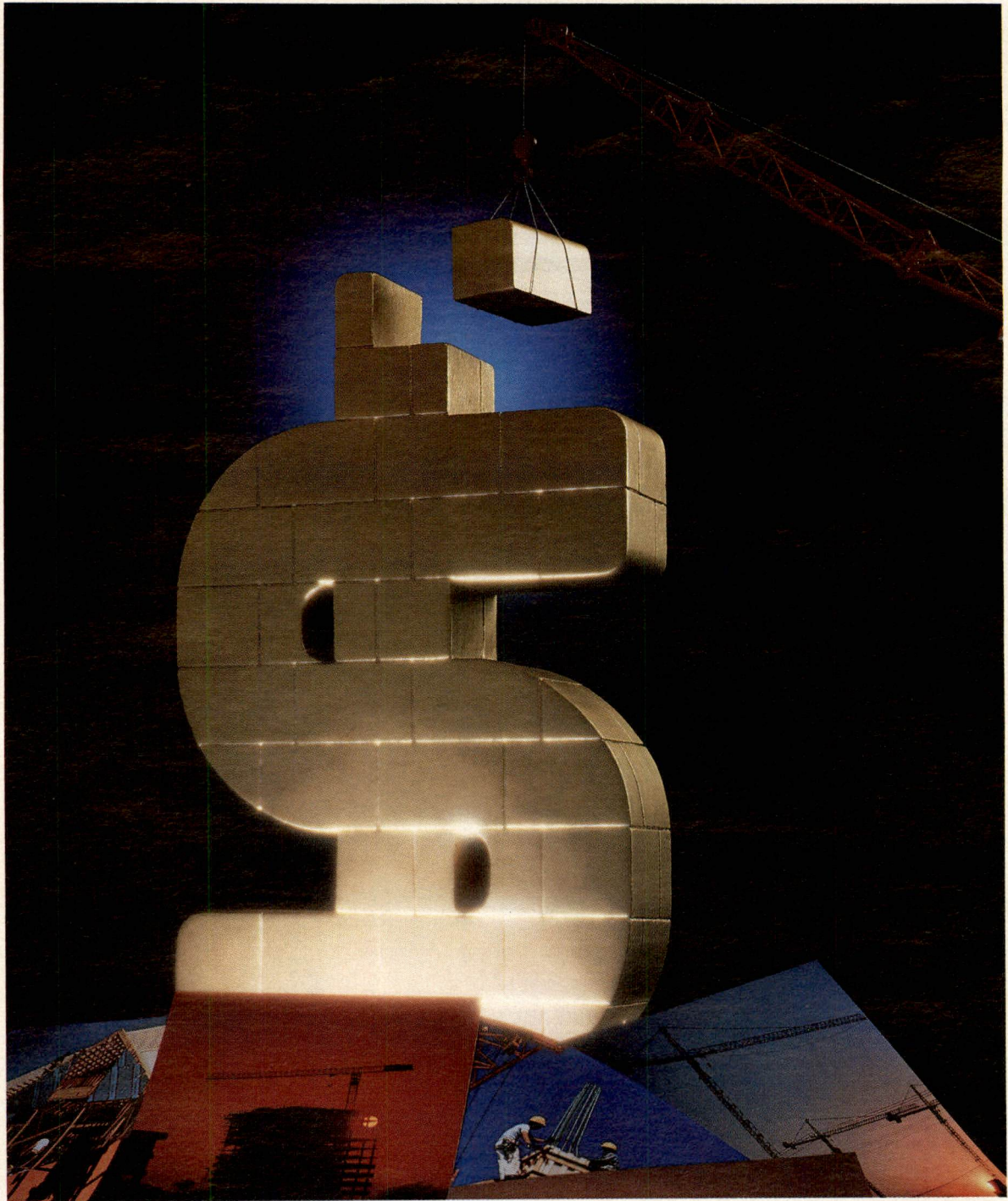
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PERSPECTIVE

IT CAN'T BE RIGHT!

The names have changed but the case is the same. The real name is *O'Donnell Construction Co. vs. District of Columbia*. The underlying question is whether a smaller and weaker victim of injustice can defeat a larger and stronger opponent. Can a small family business overcome the almost total exclusion of non-minority contractors from road construction in the nation's capital? As in Washington, D.C., where all of your federal taxes go each year.

O'Donnell Construction Co. filed a legal challenge to the U.S. capital's special preference procurement programs—including its "goals" for DBE participation in federal-aid highway construction—in June of 1989. On its face, the capital's MBE ordinance requires 35 percent of all of the city's construction to go to MBEs. It authorizes prime contract set-asides exclusively for MBEs, in order to meet that "goal." It also requires 50 percent of all subcontracts to go to MBEs.

And what makes all of this discrimination necessary? The ordinance rests on a 1974 study that concedes that local MBEs *already* had an annual volume of *at least \$52 million*.

The city's separate "goal" for DBE participation in federal-aid highway construction is 37 percent. As in the 50 states, this "goal" rests on the Surface Transportation and Urban Relocation Assistance Act of 1987.

According to the affidavits filed in the case, our nation's capital has set aside more than 90 percent of all locally funded road construction and approximately 49 percent of all federally funded road construction exclusively for MBEs for at least four years.

Yet, nearly two years after O'Donnell Construction filed its complaint against our nation's capital city, and a full 18 months after this small contractor sought a preliminary injunction against the

special preferences, the contractor has yet to obtain even the smallest measure of relief. During this two-year period,

- a coalition of MBEs has successfully moved to intervene in the case;
- an individual MBE has successfully moved to intervene in the case;
- the city has moved to dismiss the case, and in the alternative, for summary judgement against the contractor;
- the city has come forward with excessively burdensome requests for information;
- the city and the MBE coalition have independently opposed the contractor's motion for a preliminary injunction;
- the MBE coalition has filed its own motion to dismiss the case; and
- the city has opposed the contractor's efforts to obtain city records.

Each of these actions has required O'Donnell Construction to prepare and file some kind of response. As the contractor's legal expenses have climbed, the district court seems to have paid little heed to the contractor's plight. Eventually, the contractor had to file papers in the U.S. Court of Appeals for the D.C. Circuit, just to get a decision—any decision—on its motion for a *preliminary* injunction.

Finally, on March 14, 1991, the judge ruled on that motion. He denied it, forcing the contractor to take an immediate appeal to the D.C. Circuit. At the same time, the district court ordered the contractor to file still more papers in the district court, in response to the city's motion for summary judgement.

When all of this will end, and whether O'Donnell Construction will ultimately prevail, remains far from clear. AGC of America will continue to support O'Donnell's efforts to obtain justice. Do you think he has had much of that to this point?

—By **Hubert Beatty**, Executive Vice President, AGC, and CONSTRUCTOR Publisher

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CONSTRUCTOR PRESIDENTS' MESSAGE



A COMMITMENT...AND 10 OBJECTIVES

On March 19 at AGC's 72nd Annual Closing Convention Session. Just before the opportunity to have served our AGC protocol required me to leave room entrance. A few minutes later, Past Presidents Richard E. Hall and Richard S. Pepper escorted me back to the head table for a brief ceremony. Kirk Fordice gave me the gavel following which he was presented with a certificate of appreciation for his services. The mantle of AGC leadership had been passed forward for another year.

The ritual just described wherein AGC's new President is escorted down the aisle with a Past President at each shoulder is symbolic of the fact that no person approaches the station of leadership in AGC alone. That escorted walk down the center aisle was the culmination of my years of activity in our association and the starting point in the fulfillment of a commitment made when the possibility first surfaced of leading our association. That commitment was a guarantee of fair, open and full attention to the multiple interests that comprise our association.

With that commitment goes the acknowledgement that our efforts in AGC are collective, not individual. In preparing to meet new responsibilities and now in working to meet them, it is obvious that we associate so that we may accomplish together those objectives which are within our reach because they are collective and not individual goals.

Preparing for this new responsibility included review of the objectives of all who preceded me. One aspect of that was to also review the accomplishments of the past and examine their relationship to earlier objectives.

The lessons thus learned are that objectives have been guideposts to the appropriate path for our association but that the most meaningful accomplishments have been the consequences of commitment to that which is right.

With that background on commitment, my 10 objectives for the Associated General Contractors of America during the year ahead are:

- Build construction quality;
- Build owner confidence in AGC members;
- Build strong relationships with all construction industry groups;
- Build legislative strength and effectiveness;
- Build coalitions to secure adequate investment in the nation's entire stock of public works infrastructure;
- Build the construction industry's image;
- Build a reputation as an industry with total dedication and commitment to the safety and health of our workforces;
- Build relationships with all public awarding agencies;
- Build industry awareness of the value of AGC membership; and
- Build industry ethical standards.

By now, you will appreciate that the remarkable aspects of these objectives are that they represent AGC goals of many years that serve as our beacons in living up to our constant commitment to Skill, Integrity & Responsibility.

I seek your support in all of my endeavors on behalf of our association. You have my pledge that you will not find me wanting in my determination to meet your exacting standards in accomplishing AGC's mission and in serving our industry with Skill, Integrity & Responsibility.

—By **Marvin M. Black**, *President, the Associated General Contractors of America*

NEWSLINE

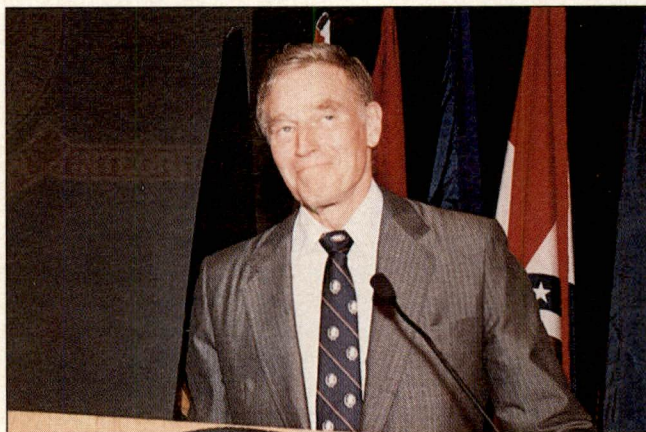
CLOUDY SKIES AT BUSINESS IN PARADISE CONVENTION



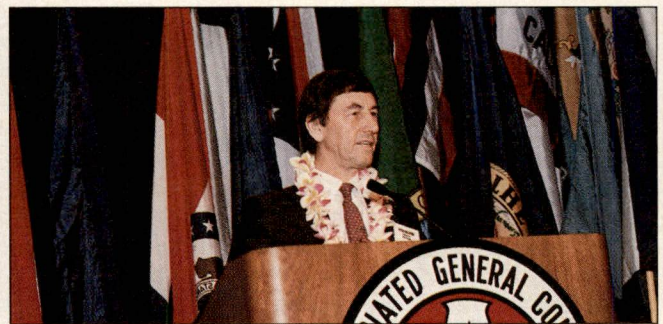
In the President's Report, Kirk Fordice outlines "A Year of Accomplishment."



1991 President Marvin M. Black



Charlton Heston told the packed room at the opening session, "We live in an era of the common man...I believe in the uncommon man."



Peter Galliford

Combinations of economies in recession, fears of terrorism, and trepidations about what proved to be a short-lived Gulf War have had a severe adverse impact on business meetings worldwide since August of 1990.

A major construction industry meeting scheduled for Bombay in February that would normally have attracted heavy participation by contractors from Asian and Western Pacific countries plus representatives from Europe, Latin America, and the United States, was cancelled. Good hosts did not want to put any of their guests in even remote danger or in any discomfort.

Fears of the unknown, recessionary and other concerns, even led to cancellation of major business events from

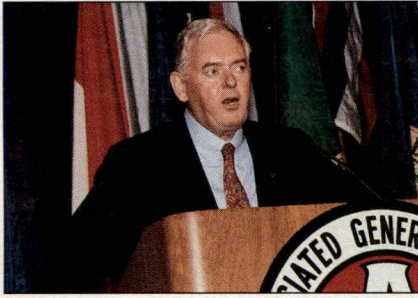
Washington, D.C., to as far away as tranquil and beautiful Hawaii. Even in peaceful domestic locations, trade associations, hotels, airlines, tour companies, and restaurants experienced severe curtailment of business activities as a result of economic and safety concerns.

Although the 72nd Annual Convention of the Associated General Contractors of America, held in Honolulu March 14-19, was also affected by such events, the basic strength of the association was reflected in an attendance of more than 3,200, packed meetings, and a dynamic, innovative program. Mid-March weather that would have been cheered in almost any location contributed to the meeting's success as intermittent showers encouraged attendees to crowd the CON-

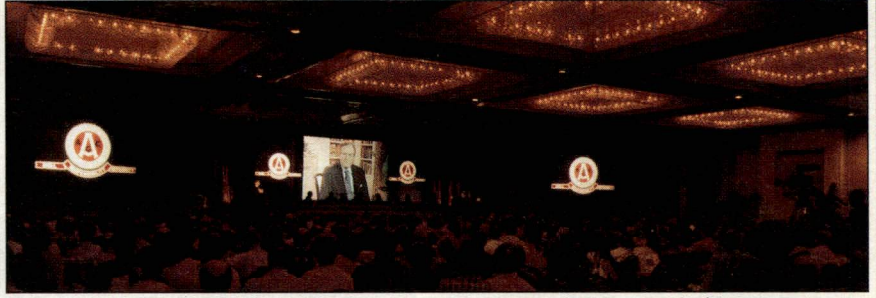
STRUCTOR Exposition, a variety of seminars, committee meetings, and general sessions.

Cost controls were in place but rarely noticeable except to the most discerning eyes. One example: no expenditures on admission tickets or guardettes to collect them, with name badges working as an effective honor system. Another example: because the meeting's distant location meant that a key speaker could not take the time to travel from the East Coast, a telephone hook-up was used. Nationally known labor attorney Robert T. Thompson reported directly from Washington on the threat and status of Striker Replacement legislation and responded to questions as authoritatively and fully as would be possible in a board

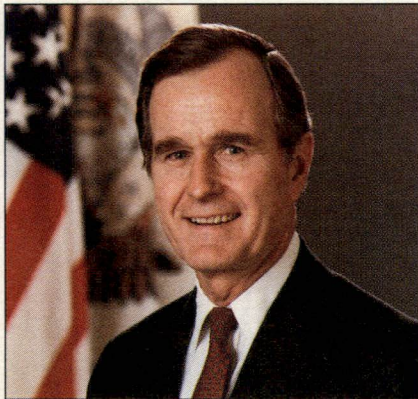
ASSOCIATION BUSINESS CONDUCTED WITH GUSTO



AGC Executive Vice President Hubert Beatty



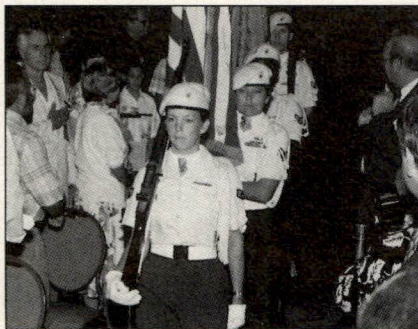
President George Bush addressed the convention in a specially taped video message.



President Bush was awarded AGC's Skill, Integrity & Responsibility (SIR) Award for his leadership in freeing Kuwait.



After a special breakfast event, Daughters and Sons of AGC members carried the Parade of State Flags.



Presentation of Colors was made by the U.S. Pacific Air Forces Color Guard.



The Kamehameha Schools Choir



The United States Navy Pacific Fleet Band

room discussion.

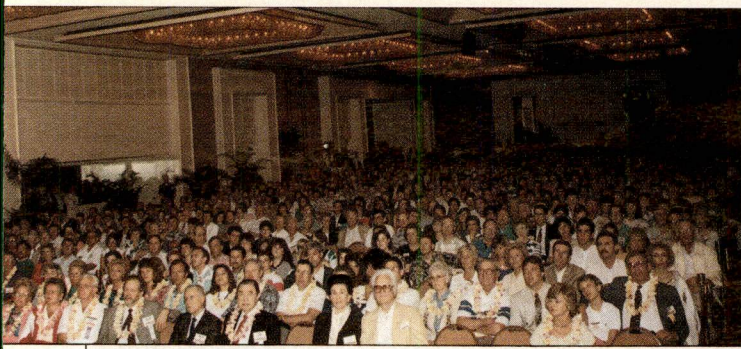
Evidence that AGC activists were out in force at the Convention surfaced in yet another innovation...a letter to all members of Congress signed by Convention attendees that indicated the number of their employees and called on each member of Congress to advance proposals that will induce economic activity and to discard proposals that will inhibit such activity.

In the economic arena, continued support of free trade was evident in discussions of the U.S.-Mexico Free Trade

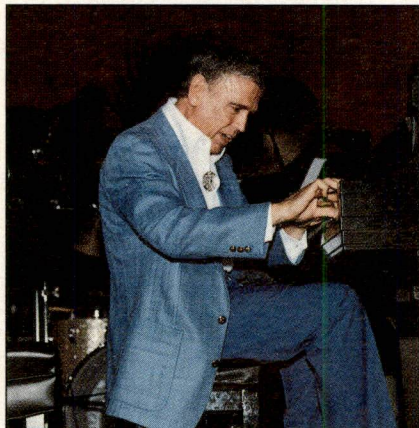
Agreement, and there was concurrence on a suggestion that AGC secure an executive summary of the proposed agreement's potential impact on the overall economy and the construction industry.

Economic considerations were also evident in the introduction of AGC's "Contractors' Underground Storage Tank Information Guide," a new publication that explores the \$90 billion construction market associated with retrofitting, removal, or replacement of more than 1.5 million underground storage tanks. The association's continuing em-

phasis on construction economics was reflected in the introduction of updated and expanded Economic Fact Sheets for each of the 50 states and an overall economic fact sheet for the United States. The fact sheets provide information on construction's share of the economy and information on non-residential building permits. The statistics contained in the fact sheets provide the latest information as of February 1991. These new AGC publications are buttressed by updated Infrastructure Fact Sheets, with the objective of secur-



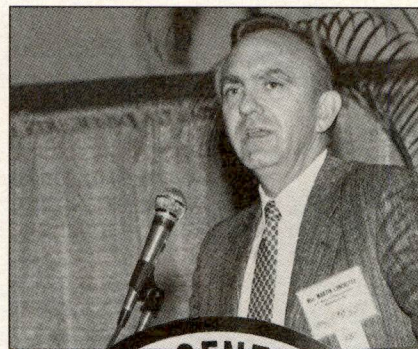
The dynamic program at the opening convention session captured the attention in the packed ballroom.



America's world-renowned pianist Roger Williams



FHWA Deputy Administrator McCormick and Rep. Bob Carr addressed the Highway Division Meeting.



Rep. Martin Lancaster spoke on hazardous waste cleanup at the Municipal/Utilities Division Meeting.



Two of the National Committee Chairmen of the Year—Michael Timura, Safety and Health Committee, and Bud Madigan, Collective Bargaining Committee—are shown above with President Fordice. Also named were Paul King, Safety Engineers Advisory Committee, and Lou Selig Jr., American Consulting Engineers Council/AGC Committee.

ing attention for AGC concerns at the local and state levels and with Congress, the Bush Administration, and the business community.

One of the most emotional meetings in Honolulu was a Wetlands Forum at which a panel of representatives from the federal government heard considerable criticism regarding ill-conceived and



1991 AGC officers (left to right): Treasurer Lawrence J. McGough, President Marvin M. Black, Senior Vice President Robins H. Jackson, and Vice President Byron L. Farrell.

overly zealous federal wetlands policies and enforcement. It was obvious that the threat to the industry resulting from excesses in wetlands proposals was accentuated by current economic conditions.

A major Convention focus was AGC's proactive and constantly expanding safety programs. Faced with the threat of new and unnecessary safety legislation, the AGC response was a combination of determination to explain the industry's concerns to Congress and the authorization of more association funding for the further development of safety programs.

Concerns about the progress and management of the Superconducting Super Collider program quickly led to the formation of a Special Task Force to meet with the Department of Energy to address those concerns.

Access to reconstruction markets in Kuwait by U.S. firms prompted an urgent request for a meeting with the U.S. Army Corps of Engineers on that subject.

AGC building contractors addressed their interests at a crowded session with participation by a panel including an in-



Accepting the Chapter of the Year Award for AGC of Washington are Pete Paup, 1990 Chapter President of the Year, Walt Smith, 1991 Chapter President, and Dick Bristow, Chapter Manager. AGC of Washington also won the Public Relations Committee Award for the Best Individual Public Relations Campaign.



The Oregon-Columbia Chapter received the distinguished Cashman Trophy for best membership accomplishments and efforts with membership activities. The Oregon-Columbia Chapter also received the award for the greatest net percentage gain in 1990.



Members are greeted by representatives from Fiatallis at the complimentary breakfasts sponsored by Fiatallis.



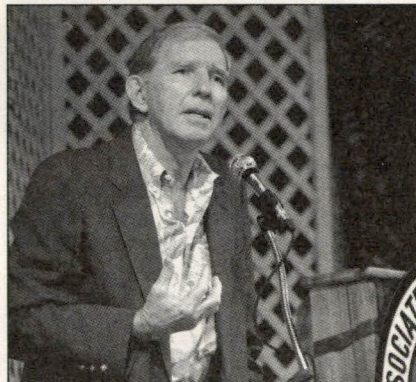
Induction of AGC Officers. President Marvin Black is accompanied by Former Presidents Richard Pepper (left) and Richard Hall.



Senior Vice President Robins Jackson is accompanied by Former Presidents Jim Supica (left) and Dana Huestis.



Vice President Byron Farrell is accompanied by Former Presidents Dana Huestis (left) and Vernie Lindstrom.



Gerald Coffey, former POW in Vietnam, challenged the crowd in attendance at the Safety & Awards Breakfast.



Larry Isemoto, President of the Hawaii Chapter, extended a gracious welcome and warm hospitality to the convention attendees.



Treasurer Lawrence McGough is accompanied by Former Presidents Vernie Lindstrom (left) and Paul Emerick.

dustrial owner, a general contractor, and a quality expert on the important topic of "Quality in Construction—the Competitive Edge."

Representative Bob Carr (D-Mich.) and Federal Highway Deputy Administrator Gene McCormick addressed AGC's highway contractors. As a result

of that meeting, the Convention unanimously adopted a resolution supporting the House Public Works Committee's budget proposal that federal investment in the nation's highways be significantly increased, to \$119 billion over five years.

At AGC's Heavy-Industrial Division contractors' meeting, spirited discussion took place on the military construction moratorium with participation by Brigadier General Clair Gill, U.S. Army Corps of Engineers.

Representative Martin Lancaster (D-N.C.) addressed AGC's Municipal-Utilities Division contractors on the subject of cleaning up hazardous waste at DOD facilities.



Doug Judson, Corroon & Black, extends a welcome at the Safety & Awards Breakfast sponsored by Corroon & Black.

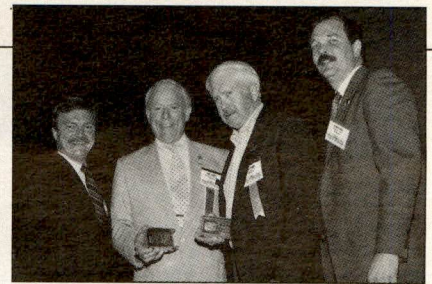
AGC's commitment and resolve in opposing special preferences was reflected in Convention approval of:

further financial support of the O'Donnell vs. District of Columbia case

AGC/MOTOROLA BUILD AMERICA AWARDS...AND OTHER HONORS



Construction Quality was the dominant theme of the AGC/Motorola Build America Awards Program that featured a dynamic multi-media presentation by Motorola in a packed ballroom at the Sheraton Waikiki Hotel.



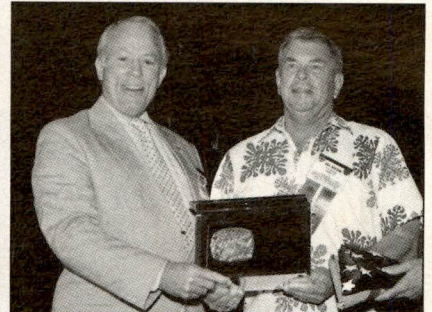
Motorola representatives Tom Golder (left) and George Webb (right) paid special tribute to President Fordice and Public Relations Committee Chairman Richard Schmidt.



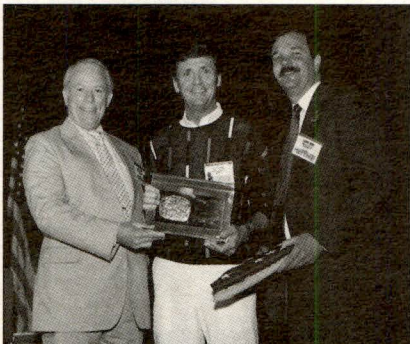
T.L. James & Co. Inc. won two Build America Awards: Heavy Industrial Category for the Sand Key, Fla. Beach Nourishment Project and Highway Restoration Category for the I-10 Fiber Reinforced Concrete Overlay. Shown above are (left to right) G. W. James III, President Fordice, Billy James Jr., Tommy Folk, and George Webb (Motorola).



Winner of the New Building Category was Hensel Phelps Construction Co. for the Colorado Convention Center in Denver. Receiving the award from President Fordice and George Webb of Motorola is Jerry Morgenzen, CEO of Hensel Phelps.



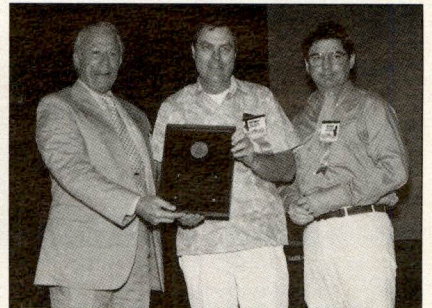
Winning the New Highway Category was Shasta Constructors, Inc. for the Sacramento River Trail Pedestrian Bridge. Accepting the award for Shasta was Richard Moseman.



William Martel, Martel Construction Inc., accepted the award for the winning Municipal/Utilities project by Martel—the Mystic Lake Dam/Flowline Replacement Project.



Winner of the Building Restoration Category was Messer/Cargile for the Museum Center at Cincinnati Union Terminal. Accepting the award are William Cargile, James Hess and Alfred Berdsen.



Winner of the Public Relations Committee Award for Infrastructure Awareness was AGC of California. Accepting the award were Dave Hawley, Chapter President, and Ken Gibson, Chapter Manager.



Accepting the award for Best Overall Public Relations Campaign for Carolinas AGC are Carl Woods, Chapter President, and Steve Gennett, Chapter Manager.



Stephen Cloutier, Metric Constructors Inc., Charlotte, N.C., accepts the H.B. Alexander Award which is given to the general contractor with the highest work hour exposure without a lost work day case.

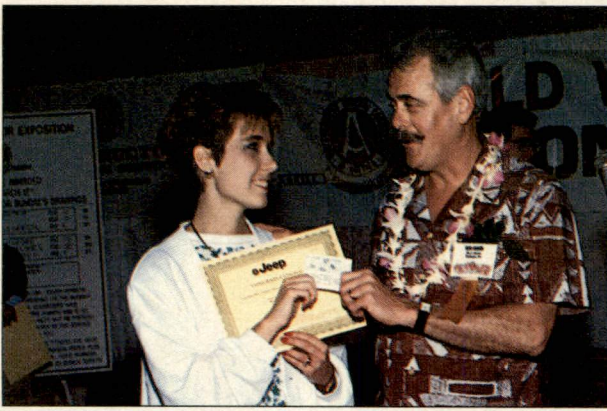
opposing Washington, D.C.'s MBE set-aside programs;

- the support of the Cone Corporation's challenge to the Hillsborough County, Fla., MBE program as recommended by AGC's Florida chapters;
- and support of appropriate special preference cases that appear to have a reasonable prospect of Supreme Court review.

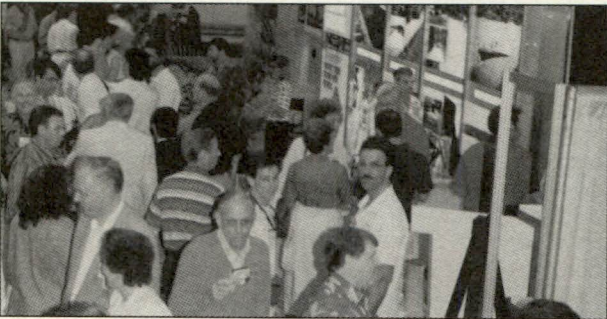
Responding quickly to 1991 AGC President Marvin Black's emphasis on construction quality, the Convention approved the formation of a Quality in Construction Committee. Responding to a call for closer relationships with owner groups, the Convention also approved the formation of a Private Building Owners Committee.

Charlton Heston captivated a standing-

AGC/CONSTRUCTOR EXPO DRAWS CROWDS EACH DAY



Prizes galore reward the crowds at the CONSTRUCTOR Expo. Kay Krusinski, Podcor Construction Co., Westchester, Ill., received the certificate for the Jeep Wrangler from CONSTRUCTOR staff member, Rich Bohan.



room-only crowd at a Hilton ballroom event that was also addressed by one of Europe's leading general contractors, Peter Galliford, of Galliford, plc, Leicestershire, England. Mr. Galliford discussed European construction opportunities, joint ventures, and international cooperation. He saluted AGC members for always taking the high road and doing that which is right as distinct from that which is expedient. His high regard for the United States was also evident in his acknowledgement of U.S. leadership in Kuwait.

The AGC Convention also appreciated a specially taped video message from President George Bush, who expressed his appreciation to individual members and the association's leadership for support of and trust in his administration. President Bush was awarded AGC's Skill, Integrity & Responsibility (SIR) Award "for his courage, steadfastness, and magnificent leadership in freeing

Kuwait and establishing faith, hope, and confidence in the United States of America."

Also named as recipients of AGC SIR Awards were Secretary of State James A. Baker III, Secretary of Defense Richard B. Cheney, General Colin L. Powell, General H. Norman Schwarzkopf, National Security Adviser Brent Scowcroft, and White House Chief of Staff John H. Sununu—for their support and implementation of President Bush's successful efforts to free Kuwait.

In his report to the Convention, AGC Executive Vice President Hubert Beatty said that during the past year, AGC suffered no losses with the Legislative Branch...benefitted from increased access to the Executive Branch...secured numerous new victories at the state and local levels as the result of its Judicial Branch victory in the *J.A. Croson* case...and said that the industry is increasingly benefitting from Fourth Estate

reporting that the American public will no longer support special preference programs, being fully committed to equal opportunity.

Another of the dynamic programs at AGC's 72nd Annual Convention involved the National Associate Members Council. The primary thrust of that meeting was discussion of the state of the construction industry from the perspectives of subcontractor and other associate members. That panel discussion was moderated by 1990 AGC President Kirk Fordice. The panelists were John B. Dunn, Dun-Par Engineered Form Co., Raytown, Mo.; Reginald L. Parker, Peoples Heritage Savings Bank, Portland, Maine; and William Ernstrom, Ernstrom & Estes, Rochester, N.Y.

At that same meeting, former Reagan Administration official and now political consultant Haley Barbour, of Barbour & DeCell, provided insight into the political process in its entirety.

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225D		56,860/25 780	
219D LC	140/104.4	49,750/22 560	1.25/900
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AGC DIVISION BRIEFS

BUILDING DIVISION

Convention activities. The Building Codes and Permits Committee discussed establishing liaison meetings with the three model code organizations and the impact of the federal metrication efforts, the American with Disabilities Act, and other public policy-oriented code changes.

The Housing Development Committee recommended that AGC develop liaison activities with the HUD Office of Multi-Family Housing Programs and reviewed the status of the Cranston-Gonzalez National Affordable Housing Act and tax credit and voucher systems.

The Federal Building Procedures Committee discussed formation of a Private Building Owners Committee and a National Aeronautics and Space Administration Task Force and reviewed the practice of escrowing bid documents. The formation of a Private Building Owners Committee was approved at the Building Division meeting.

The Project Delivery Systems Committee reviewed progress on revisions to AGC's "The Use of CPM in Construction" manual and the "Design Build Guidelines" pamphlets. The committee also discussed the actions of the CM, PM, D/B, Lump Sum, and Privatization subcommittees, which included AGC review of GSA's new CM Guide and Administrative Orders, the VA's CM Contract and an upcoming meeting of the GSA Design Build Focus Group.

The Subcontractor Relations Committee made final recommendations to the AGC/ASA/ASC jointly produced "Project Cash Flow" guidelines and reviewed revisions to AGC documents #603 ("Short Form Subcontract") and #610 ("Subcontractors Application for Payment.")

The Quality in Construction Task

Force reviewed activities to date and recommended that the task force become a committee, which was approved at the Building Division meeting.

HEAVY-INDUSTRIAL DIVISION

DoD's moratorium on military construction may end April 16. DoD's moratorium on military construction, first announced in January 1990, has been extended to April 15, 1991. This past February, Colin McMillan, assistant secretary of defense for production and logistics, testified before the House Subcommittee on Military Construction. In his written testimony, McMillan indicated that DoD expects to lift the moratorium on April 16. However, in oral comments, McMillan acknowledged that the final decision rests with Secretary of Defense Richard Cheney. AGC will submit a statement to the House Subcommittee on Military Construction in support of lifting the moratorium.

AGC pushes for legislative solution to competitive negotiation in the 102nd Congress. AGC has met with congressional staff to discuss its concerns about competitive negotiation. Rep. Richard Ray (D-Ga.) and Rep. Jon Kyl (R-Ariz.) have agreed to work with AGC legislatively to address the association's concerns.

AGC and Corps of Engineers agree to conduct joint workshop on alternative dispute resolution. On February 25, Heavy-Industrial Bulletin #91-2 formally announced the AGC-Corps of Engineers joint workshop on alternative dispute resolution. Two two-day courses will be held April 30-May 3 in Memphis, Tenn. Applications are now being accepted on a first-come, first-served basis. Each session will include 15 contractors and 15 Corps personnel.

HIGHWAY DIVISION

Highway legislation tops national agenda.

In a speech announcing the end of the Persian Gulf War, President Bush told Congress and the nation that the highway bill is a top legislative priority on the domestic agenda. The President said, "Let's begin with two initiatives we should be able to agree on quickly: transportation and crime. And then let's build on success with those and enact the rest of our agenda. If our forces could win the ground war in 100 hours, then surely the Congress can pass this legislation in 100 days. Let that be a promise that we make tonight to the American people." The authority to spend federal-aid highway funds expires at the end of September.

Governors urge increased highway funding. The National Governors' Association (NGA) is asking governors to sign a joint letter urging the congressional budget and appropriations committees to raise the highway obligation ceiling from the current level of \$14.5 billion to \$16.5 billion. Governor Wallace Wilkinson of Kentucky, chairman of NGA's Committee on Transportation, Commerce, and Communications, wrote to all governors to encourage their support. AGC worked closely with NGA last year in support of the record \$14.5 billion funding level.

Congressional Budget Office testifies on Highway Trust Fund Account. James L. Blum, assistant director of the Budget Analysis Division of the Congressional Budget Office (CBO), told the Senate Environment and Public Works Committee that at the beginning of this fiscal year the unexpended balance of the Highway Trust Fund (including the Mass Transit Account) totaled \$16.8 billion. According to CBO, the unexpended balance of the highway account totaled \$9.6 billion. By FY 1995, under the administration's

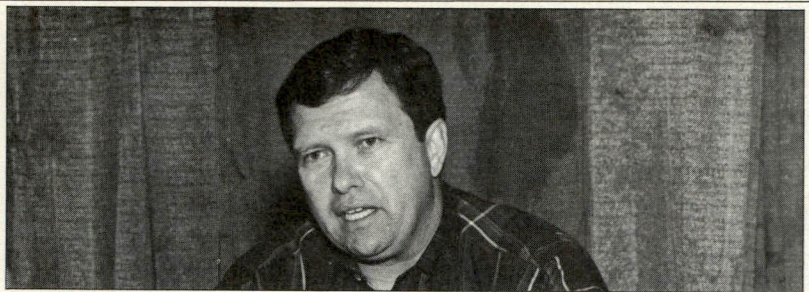
proposal, Blum told the committee that the combined trust fund unexpended balance would reach \$27.3 billion.

1990 AASHTO-AGC-ARTBA joint policy statements published. The 1990 policy statements of the joint committee have been published and are available from AGC's Highway Division. The joint statements include: The Open Competitive Bidding System, Developing Necessary Transportation Professionals, Alternative Dispute Resolution, Buy America—Product Tracing Requirements, and The Highway Program—Post 1991.

MUNICIPAL-UTILITIES DIVISION

AGC seeks to meet with EPA on explosives rule. AGC is part of a coalition that is seeking a meeting with the Environmental Protection Agency (EPA) to discuss an EPA proposal to impose new federal regulations on the use of commercial explosives and flammable products. The EPA action would place explosives on its list of "Extremely Hazardous Substances," thus subjecting these products to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986. If explosives are included on this list, individuals who are planning to use explosives in quantities of 500 lbs. or more would be subject to significant new recordkeeping, reporting, and notification requirements. These requirements may include obtaining approval from local or state emergency planning committees before explosives could be brought on site.

AGC submitted comments to EPA on its proposed rule pointing out that explosives are already subject to federal, state, and local regulations. AGC also pointed out the unreasonable burdens that would be created by these new federal regulations. AGC called on EPA



Col. Charles Cowan, U.S. Army Corps of Engineers, at the Partnering Forum in Honolulu.

AGC PROMOTES PARTNERING AT CONVENTION

In AGC's continuing efforts to promote the "partnering" concept, the association held a forum entitled "Partnering: The Team-Work Approach to Successful Construction Projects" at AGC's 72nd annual convention in Honolulu, Hawaii. Participants in the forum included Col. Charles Cowan, District Engineer and Commander of the Portland District, U.S. Army Corps of Engineers, Portland, Oregon; Richard Lewis, Granite Construction Co., Watsonville, California; and J. Doug Pruitt, Sundt Corp. Phoenix, Arizona.

Col. Cowan discussed the reasons why a public owner supports the partnering concepts; Richard Lewis discussed the advantages of such a program for contractors working in federal public works projects; and Doug Pruitt discussed the benefits in promoting such a program for contractors working in the private sector.

AGC President Marvin Black has placed the issue of partnering at the top of his agenda and has established a goal of formulating a Model Partnering Program in the coming year. Because of the interest in this issue and the packed audience at the forum, *CONSTRUCTOR* intends to reprint a transcript of the Partnering Forum in an upcoming issue.

to abandon this new regulation; however, the agency appears to be planning to move forward. AGC has teamed up with a variety of groups in attempting to meet to dissuade EPA from taking this action.

Fiber optic cable standard submitted for industry comment. AGC has been working with the Electronics Industries Association (EIA) on a "Standard for the Protection and Location of Below Ground Fiber Optic Cable Plant." This standard recommends practices to owners so that fiber optic cable can be located prior to

excavation, thus avoiding the potential of its being severed. The standard recommends participation in one-call systems, engineer drawings, as-built plans, warning markers, and other similar practices.

The draft standard was submitted for general industry comment and final minor changes were adopted. The standard will now be submitted to the American National Standards Institute (ANSI) for official adoption. AGC will be seeking to have the standard adopted in the building codes of all 50 states.

REBUILDING KUWAIT

Kuwaiti government officials and the U.S. Army Corps of Engineers have begun implementing an extensive rebuilding program to repair the ravages of the Iraqi occupation of Kuwait and the Persian Gulf War.

The scope of the program is not known at this time, as the extent of the damage suffered by Kuwait and the magnitude of the consequent reconstruction needs are still not fully determined. It seems likely, however, that reconstruction will take several years, with costs running into the billions of dollars. The Corps of Engineers has signed a \$45 million agreement with the government of Kuwait to provide support services during a 90 to 120 day "emergency period" following the expulsion of Iraqi forces and the cessation of hostilities. The Corps, working closely with Kuwaiti officials, is seeking to get vital infrastructure facilities back in operation as soon as possible. The Kuwaiti Emergency Recovery Office at the Middle East/Africa Projects Office in Winchester, Va., is managing the Corps program in Kuwait (see following sidebar). The Corps will provide services to the following Kuwaiti government agencies:

- Ministry of Public Works
- Ministry of Electricity and Water
- Ministry of Defense
- National Guard

Col. Ralph Locurcio heads the Kuwaiti Emergency Recovery Office (KERO). Col. Locurcio commanded the Corps' Savannah District prior to his selection for this assignment. KERO has recruited volunteers from throughout the Corps of Engineers to work in Kuwait. Corps personnel selected for this assignment deployed to the Middle East in early March.

A small advance party entered Kuwait almost immediately after the fighting stopped to establish KERO headquarters. Damage assistance groups and damage assessment teams are being brought in to determine the extent of damage to infrastructure facilities and

begin the process of restoring vital services. This effort includes preparation of repair cost estimates, procurement of necessary equipment, supplies, and materials, and ongoing consultation with

Kuwaiti government officials on restoration planning and priorities.

The Corps is providing contracting and management services for repair and restoration work as well as other design and construction services. These services include restoration of water and power and repair of government buildings, roads, sanitation facilities, ports, and airports. The entire program is be-

RECONSTRUCTION CONTACTS

Corps of Engineers

Pamela Friestad
Contract Specialist
Kuwaiti Emergency Recovery Office
U.S. Army Corps of Engineers
Middle East/Africa Projects Office
P.O. Box 2250
Winchester, Virginia 22601-1450
Phone: (703) 665-3683

Other Phone Numbers

(703) 665-3692
(703) 665-3667
(703) 665-3674
Fax: (703) 665-3621
(703) 665-3626

Government of Kuwait

Dr. Abdul Hadi Al-Awadi
Project Director
Kuwait Emergency Recovery Plan
Follow-up Center
1510 H Street, N.W.
Washington, D.C. 20005
Phone: (202) 508-0250
Fax: (202) 508-0272

Oil Sector

Mr. Hani Hussein
Khalid Al-Fulail
Abdultourif Al-Toureh
Kuwait Petroleum International
80 New Bond Street
London, England
Tel: 44-71-491-4000
Fax: 44-71-493-7996

U.S. Foreign Commercial Service

Saudi Arabia (Riyadh):
Senior Commercial
Officer Dirck Teller
Tel: (966) (1) 488-3800
488-3237

Saudi Arabia (Dhahran):
Commercial Officer
Carmine D'Aloisio
Tel: (966) (3) 891-3200
Fax: 891-8332

Office of International Major Projects - Commerce Department

Buzz Piggott
Phone: (202) 377-3352

KUWAIT RECONSTRUCTION INFORMATION

The primary contact points at this time for U.S. contractors seeking work in Kuwait are the U.S. Army Corps of Engineers' Kuwaiti Emergency Recovery Office in Winchester, Va., and the government of Kuwait's Emergency Recovery Plan office in Washington, D.C. A listing of addresses and phone numbers for these and other contact points follows.

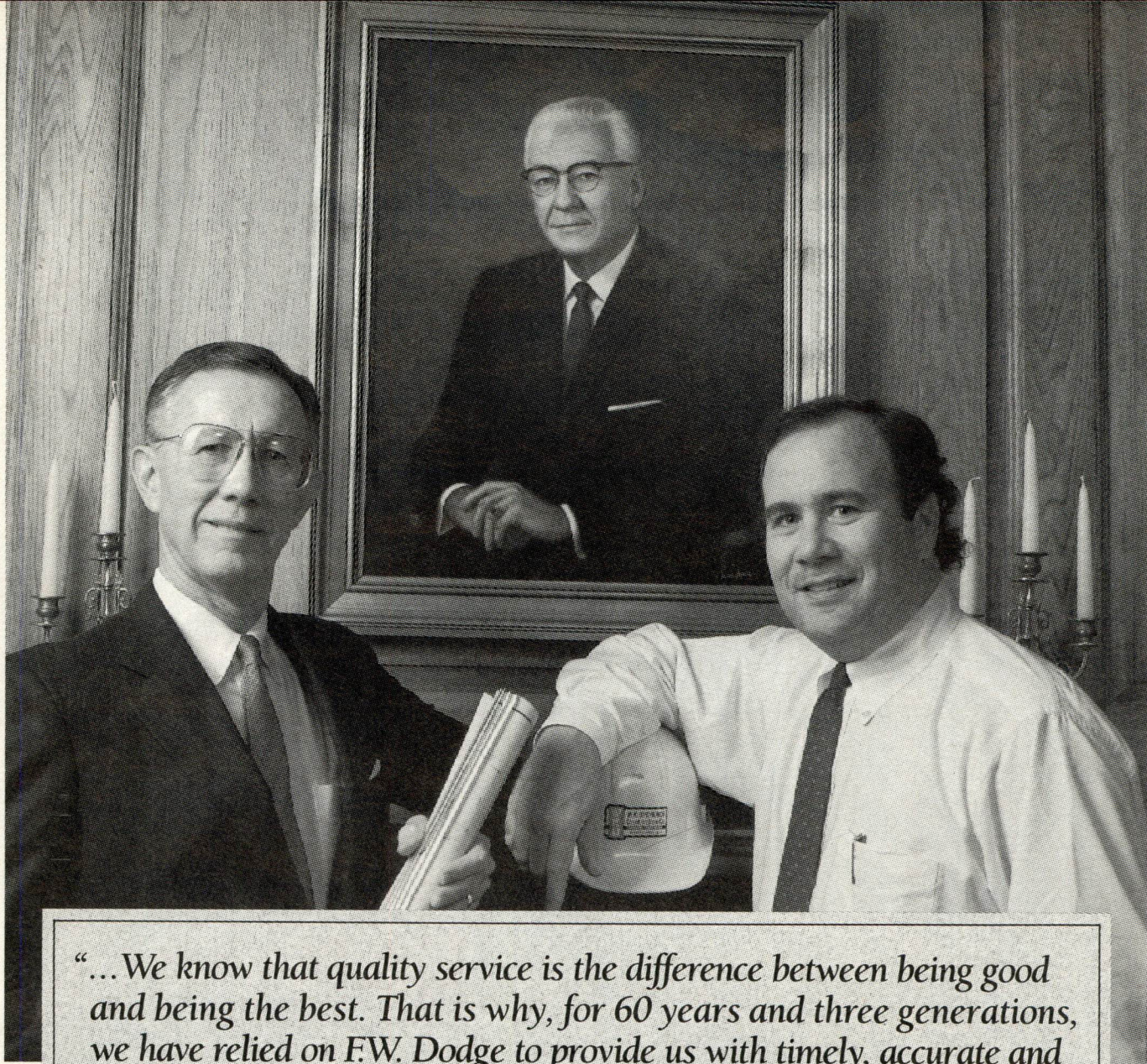
Due to the tremendous demand for information on reconstruction projects, it is often difficult to reach the Corps and the Kuwaiti reconstruction office by phone. It is recommended, therefore, that U.S. firms mail a description of the services and products they provide to the appropriate address.

The U.S. government has also opened a Gulf Reconstruction Center at the Department of Commerce in Washington, D.C. to assist American companies in pursuing opportunities in Kuwait. Phone numbers for this center are (202) 377-5767 and (202) 377-5737.

Individuals seeking work in Kuwait can call the U.S. Department of Labor at 1-800-927-5690.

ing paid for by the Kuwaiti government.

The extent of the Corps' involvement after the initial emergency period has not yet been clearly defined. The Corps has, however, reportedly received an additional \$55 million from the government of Kuwait for the reconstruction program.



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COVER STORY

"COOPERATION MUST REPLACE CONFLICT"

AGC PRESIDENT MARVIN BLACK LEADS THE INDUSTRY BACK TO REASON

Marvin Black doesn't look like your typical revolutionary. The six-foot-four Georgian is a gentleman in the Southern tradition: friendly and soft-spoken, yet firm in his convictions. While he knows when the line must be drawn, he's the kind of man who would rather reach accommodation profitable to both sides. But in light of the state of the industry, his goal as AGC president is revolutionary: to return control of the construction process to contractors, who can then re-focus their attention on business instead of wasting time and money on litigation, disputes, and divisiveness.

"The current litigation explosion threatens to destroy our industry," he warns. "It's eroding the thin profit margins at which we already operate. And it's gotten to the point where even if you win in court, it costs you so much that nobody really wins. The time for a return to reason is now." Construction contractors can retake control of their own destiny only by increasing cooperation and trust—both among the individual parties on the building team and among the industry groups that represent them and develop the contract documents used by all members of the construction team.

Leading a large-scale effort of this kind, one that extends across all sectors of the construction industry, is something Marvin Black is, by temperament and reputation, uniquely qualified to do.

"My father didn't leave me a lot of

money," says AGC's new president, "but his sons (six, of whom Marvin was the third) did inherit his reputation. And that is something you couldn't buy for all the money in the world."

Marvin Black, and those AGC members who know him best, believe that reputation for integrity may be his most potent asset in building trust and cooperation among industry groups. Robert (Bob) Strickland, former manager of the Georgia Branch, AGC, had the unique opportunity of observing both father and son as presidents of the chapter. (Joe was president in 1954, Marvin in 1974.) "You have to understand that Marvin, his father, and their whole view of life go back to the time when your word was your bond and work was done on a handshake," says Strickland. "Of course, you can't do that anymore. But you get the feeling that's how he'd *like* to do work. Even the physical resemblance is there. Marvin's a big man and when you watch him walk across a room, from the back you'd swear it was his father."

Joe (J.J.) Black came from White County in the mountains of north Georgia, an agricultural region where farmers traditionally built their own barns and houses. Work for carpenters was scarce in the 1920s, so J.J. Black, like many others during that period, took his young wife to Atlanta to seek his fortune. Working first for a local general contractor, then on his own, J.J. did private residences and small commercial projects. He soon developed a reputation for competence and fair dealing.

THE EARLY YEARS

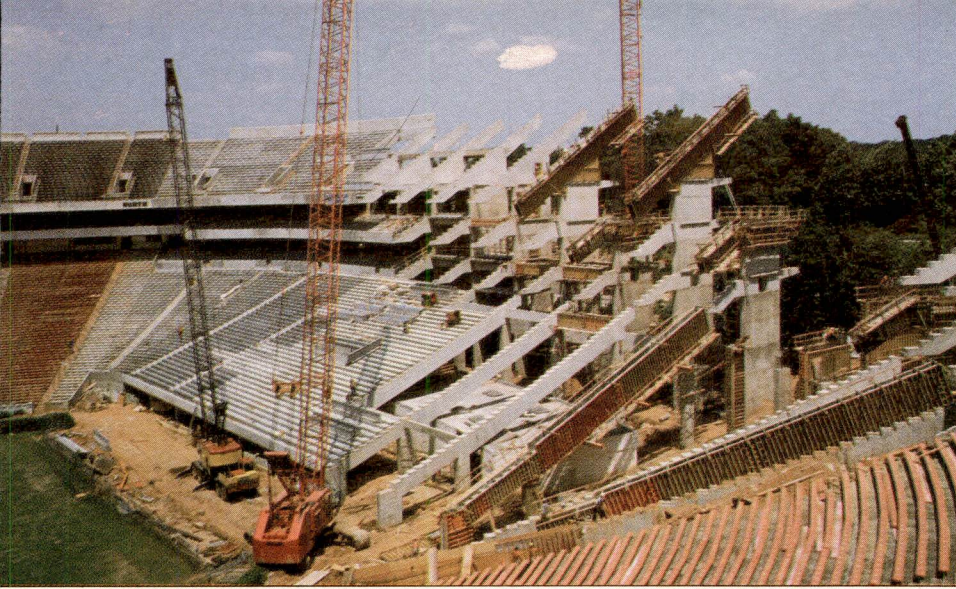
Marvin grew up on construction sites, working summers for the company as a laborer and carpenter's helper. At the outbreak of World War II, he joined the Navy as an aviation cadet. Upon graduation from the Naval Aviation Training Command in Corpus Christi, Tex., he was designated as a naval aviator and entered the U.S. Marine Corps. His first duty station was El Centro, California, where Second Lieutenant Black and another officer tried to crash a U.S.O. dance for enlisted men. They were turned back at the door by one Joanne Rothwell, the daughter of a local contractor who built water treatment plants. That very night she told her mother, "I just met the man I'm going to marry."

Five weeks later, on July 9, 1944, Joanne and her Marine Aviator tied the knot. They've been partners ever since, creating a successful business and family. Their two sons (Michael and Steve) and two daughters (Laurel and Jennifer) are all happily married.

Second Lieutenant Black, 20, soon found himself in the cockpit of a Corsair F4U, the most powerful fighter-bomber of its day. Combat forced the young man to grow up in a hurry. Based in the Philippines, he flew bombing and close air support missions. Marvin flew more than 100 sorties and was awarded the Distinguished Flying Cross with two stars. He was all of 22.

After the war, Marvin joined his father's firm as an estimator and project manager, building many of Atlanta's

(continued)



(Left) East End Addition to Sanford Stadium for the University of Georgia. (Below left) Marvin M. Black Co. has developed a profitable specialty market in roller coaster construction, such as this one at Circus World in Orlando, Fla.



schools, churches, banks, and service stations. When J.J. Black retired in 1964, Marvin struck out on his own. Starting with one office worker and Joeanne as company secretary, Marvin routinely worked 20-hour days, managing projects during the day and estimating jobs at night.

MAKING A NAME OF HIS OWN

Throughout the 1960s, Marvin M. Black Co. built for a who's who of Atlanta organizations, including the Citizens & Southern National Bank, Gulf Oil Corp., Tenneco, the Methodist church, and the boards of education in three local counties. As its client base grew, so did the company's reputation for repeat business, technical expertise, and innovation. Company files are thick with letters commending its staff for going the extra mile.

The 19-story Bennington Towers, for example, a luxury condominium completed in 1984, was one of the tallest structures in the Southeast built of load-bearing masonry supported by a post-tensioned, floating-mat concrete slab. This technique enabled the company to avoid deep foundations and the cost of some 180 tons of reinforcing steel.

Marvin M. Black Co. constructed the East End Addition to Sanford Stadium for the University of Georgia at a savings of \$300,000. Instead of using sheet piling to stabilize a bank near a railroad track, Black drilled concrete caissons and tied them into the bank.

As Marvin devotes himself to AGC business in the year ahead, he knows the company that bears his name is being managed by experienced hands. Michael, 46, is company president and chief operating officer. A leader in AGC's Georgia Branch, he was named committee chairman of the year in 1989. Mike holds a B.B.A. from the University of Georgia and an M.B.A. from Georgia State University. Steve, 43, joined the Marines out of high school and served in Vietnam. As vice president, he heads up the company's computerized estimating operations.

QUALITY, OPPORTUNITY, OUTREACH

"The past quarter century has been a time of great abundance," says AGC's new president. "Now, we are entering a new era. Profit margins are tighter than ever. Owners are more sophisticated and more demanding than ever. Litigation is rampant, taking a bigger bite out of construction contractors' bottom line profits than ever before. I make no apology when I tell you that I want to be making a larger profit on my next job and future work than any lawyer."

"But we miss the point in simply blaming lawyers. No lawyer ever worked for a construction company that wasn't asked to. The onus rests with the contractor to reduce litigation."

Asked to bottom line his objectives, Marvin Black sums them up in three words: "quality, opportunity, outreach."

Quality. Quality means improved contract documents, ones that are more equitable for all parties. The more equitable the documents, the less disagreement; the less disagreement, the greater profit for all parties.

Quality means improving relations with all members of the building team to reduce problems. Owners, Marvin Black will tell you, are vastly more sophisticated than they were a few short years ago. He tells of attending a Business Roundtable meeting where, it was reported, an owner encountered one contractor with an insurance experience modifier rate of 1.4, projecting a \$2.2 million workers' compensation premium on the owner's project. Another contractor had an experience modifier of .6 and a premium of \$900,000 on the same project. Now who, Marvin Black asks, do you think got the job?

By the same token, owners will soon have the same acumen with regard to litigation. Before signing a contract, they'll likely ask to see your company's litigation history. Those who solve their problems outside the courtroom will have the edge.

Opportunity. As traditional markets become slimmer, President Black believes AGC must "lead the way in discovering and engaging in new markets, new opportunities." That means capitalizing on the \$5 billion increase in federally funded construction that AGC lobbied hard to achieve. It means maximizing markets opened by legislation such as the Americans with Disabilities Act, the three-year \$5.1 billion Superfund extension, the Clean Air Act with

MARVIN M. BLACK

Born: Atlanta, Ga. 1924

Education: Tech High School, 1942; BBA, management, Georgia State University, 1958

Military Service: Marine Corps Aviator. Retired with rank of Colonel from Marine Corps Reserve, 1984. He is a past president of the Atlanta Chapter of the Marine Corps Reserve Officers Association.

Other Professional Activities: Former chairman of the board of First Security National Bank, Norcross; member, U.S. Postal Service Advisory Committee, Real Estate and Construction, 1987-1989; member, American Institute of Constructors; member, Consulting Contractors' Council of America. President of the Georgia Branch AGC, 1974.



its retrofitting of industrial facilities, and the expanded budgets of the General Services Administration and Veterans' Administration.

In these times of fiscal austerity, opportunity means access to the Bush Administration and federal agencies. It means expending maximum effort on Capitol Hill to defeat quota bills, stop the use of gas taxes for deficit reduction, stop misguided and unworkable safety legislation, stop mandatory, costly family and medical leave legislation, and stop punitive legislation vastly increasing penalties for OSHA violations.

Outreach. "As we enter a new age of construction, we must transform our relationships with the whole range of private sector groups, whether with owners, architects, and engineers, or subcontractors and specialty contractors," says Marvin Black. "Too often in the past, we have dissipated our energies in adversarial relationships. To thrive in this new climate, cooperation must replace conflict. To that end, AGC, AIA, and other groups worked successfully last year to have the National Association of Attorneys General withdraw their model contract documents. We also worked with the American Consulting Engineers Council to produce 'An Owner's Guide to Saving Money by Risk Allocation.' AGC is increasing its involvement with the Business Roundtable, especially in the area of safety. Through the American Construction Industry Forum, we are building relationships with other hard hat groups in the industry. And, despite the fact that we are

sometimes on opposite sides of the fence from organized labor, we will be meeting with labor leaders during 1991 to discuss issues of mutual interest."

Partnering. "I'm especially enthusiastic about the concept of partnering," says Marvin Black, "something the Corps of Engineers has gotten behind, and that has attracted the interest of the Veterans' Administration, the General Services Administration, and other federal agencies. Basically, partnering means building a relationship of trust among the owner, architect, the general contractor, and subcontractors. This can be done by an informal gathering of the building team at a site away from distractions. The twin goal is to establish mutual trust and plan for the project. Then, when a problem arises, you reach for the phone to call your owner/partner instead of reaching for a lawyer. Once you're in the courtroom, you've already lost." President Black has already announced his plans to create a model partnering program.

Marvin Black has been a quiet activist in AGC for more than 20 years. During that time he's watched the association's effectiveness grow. "I don't know of any organization in any field that gets more done with less overhead than AGC. Everywhere I've traveled, the quality of our people and programs I've come in personal contact with has been superb."

Under the leadership of Marvin Black, AGC effectiveness and strength will increase in the year ahead. You have his word on it.

—By William Heavey, editor

Precious Medals

1972



Thomas S. Byrne, Inc.
Dravo Corporation
Yeargin Construction Co.

1973



Bannes-Shaughnessy, Inc.
Kennaday Paving Co.
Umpqua Division of Bohemia Inc.

1974



M.M. Sundt Construction Co.
Charles H. Shook, Inc.
S.J. Groves & Sons Co.

1975



Barton-Malow Company
Hunter-Saucerman Construction, Inc.
Harold MacQuinn, Inc.

1976



Dravo Corporation
Flagler Co.
R.E. Lee & Son, Inc.

1977



Walsh Construction Co.
W.L. Hailey and Co., Inc.
Foster and Creighton Co.

1978



S.J. Groves and Sons
H.B. Alexander and Son, Inc.
Gilbane / Jackson
Construction Co.

1979



Mardian Construction Co.
Dravo Engineers and Constructors
John Luther and Sons Co.

1980



Harvey Construction Co.
Williams & Burrows, Inc.
Guy F. Atkinson Co.

1981



Turner Construction Co.
Shook, Inc.
W.J. Barney

1982



J.A. Jones Construction
Foster & Cooper, Inc.
Al Cohen Construction Co.

1983



Cianbro Corporation
Massman Construction
Turner Construction Co.

1984



Centric Corporation
Pepper Construction
Sundt Construction

1985



Austin Commercial
HCB Contractors
Hensel Phelps Construction

1986



George Hyman Construction Co.
Sundt Corporation
Kiewit Pacific of Vancouver
Global Consultants

1987



HCB Contractors
Turner Construction Co.
Beacon-O'Connell, Inc./
Perini Corporation

1988



Flatiron Structures Inc.
Gilbane / Smoot / Dick
Turner Construction/
Beacon Construction

1989

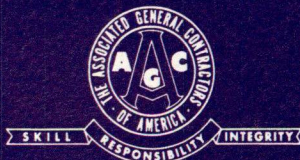


Riedel International/Tokola
Pensacola / Tyger
Wescott Construction
Intermountain Construction

1990



Hensel Phelps Construction Co.
Messer/Cargile Association
Martel Construction Inc.
Shasta Constructors, Inc.
T.L. James & Co. Inc.-Ruston, LA
T.L. James & Co. Inc.-St. Rose, LA



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PRESIDENT'S REPORT

AGC..SERVING PUBLIC INTEREST

One year ago, in San Francisco, I expressed appreciation for the opportunity to serve as President of the Associated General Contractors of America and pledged that all of my endeavors would be in accordance with the purposes for which this organization was established in 1918. Since then, in every discussion in which I participated, in every action contemplated and in every decision made, that pledge has been honored. It was not difficult because all that had to be done was to follow the well-lighted path of the good people to whom association members have entrusted the AGC Presidency since our association was established in 1918.

In San Francisco, I said, "That which jumps out from the pages

of our history is that AGC has a remarkable record of having been on the correct side of the issues. We have not always prevailed in the short term but, over the longer term, we prevail because that which we advocate best serves the public interest." I have not the slightest doubt that as long as the Associated General Contractors of America exists, every action it contemplates or takes will be measured to that exacting standard of serving the public interest. My certitude on this has been buttressed during the past year by participation in national and chapter meetings throughout this great nation. At such meetings, it has always been rewarding to observe direct, open and uncomplicated communication where construction industry views are not cloaked in the fancy plumage sometimes

used to adorn self interest. Instead, as we do on construction sites where direct and sequential actions are essential to ensure that what we build stays in place, the actions we take as people freely associated with each other are equally direct and sequential. Construction has no tolerance for either inexactitude, falsehood or illusions.

One year ago, we faced the threat of what became known as the Kennedy/Hawkins Quota Bill. We faced it squarely. President Bush faced it squarely. Congress upheld his veto. We face that challenge again in the 102nd Congress. We will face it squarely, and I believe that we will prevail again because its proponents will not be able to demonstrate that quota-inducing legislation is in the public interest.



A YEAR OF ACCOMPLISHMENT

One of my earliest actions as AGC President was to personally write to each general contractor member. The essence of my letters was to thank members for their financial support of our association, and in some instances, to request that they review whether those hard-earned dues payments are in accordance with the Bylaws determined by our governing body, AGC's Board of Directors.

While I appreciate the widely held philosophy that many of us are strong AGC supporters because we want to put something back into the industry in which we earn our livelihoods, I have a strong conviction that every trade group worthy of the name must, increasingly, be able to demonstrate its worth by measurable accomplishments.

That belief governed my action last month in again communicating to all of our general contractor members the measurable accomplishments and services that our association provides. That report concisely documented more than 60 AGC accomplishments, programs or short-term objectives that are summarized further in our Executive Vice President's Report.

I reference those accomplishments here to make the further point that **they should not be measured alone** by dues payments. It would take a highly sophisticated accounting system to measure and reflect the value of contributions to our association by the members who serve on chapter and AGC of America committees or special task forces. You people in this audience know whereof I speak. You know the value of the time that you have so generously given not to advance yourself, but to advance our association and elevate our industry. I do not

need a prepared script to look out and make eye contact with the good people in this room who have risked their businesses to the care of others knowing full well that their sacrifices, their time, their knowledge and their ideals may be too little appreciated by all in the industry who become the beneficiaries of your efforts. So, while I thank you, it is to that wider industry audience that I now appeal. When you read the published reports of this meeting and of AGC's activities during the past year, imagine that you were directly involved in the basic work that resulted in this association's accomplishments.

Assume, and price it, that you worked directly in the preparation of AGC's safety videos and publications, contract documents and manuals, State or Congressional testimony, training materials, meetings with government agencies, meetings with organized labor, with Business Roundtable representatives, building codes officials, Congressional contacts, or in the development of a model "Partnering" program, the Rebuild America Coalition or the multiplicity of events that take AGC activists away from their families and their businesses to advance our industry.

We all know that a contractor who does not get compensation for his construction products or services will not get credit for altruism, or any other credit when such altruism would remove that firm from the marketplace. To the Chapter leaders in this audience who doubt if all members have a full appreciation for all the association does at every level to advance the industry, please do not be reticent about putting the facts squarely in front of those whose interests are advanced by those of us who are activists.

LOOKING AHEAD

On September 5, I wrote to President Bush and all Members of Congress bringing to their attention that the United States was already well on the way to, at a minimum, a deep recession that was being substantially triggered by declining construction markets. Components of that decline included:

- The impact of economic uncertainty on industrial construction markets and at a time when modernization of America's industrial facilities is vital to our international competitiveness;
- The Military Construction moratorium originally imposed on January 24, 1990, in place on September 5 and still in place;
- The Savings and Loan disaster and the Banking crisis; and
- The continuing, in effect, impoundment of Highway, Airport and Waterways trust funds.

When Congress adjourned on October 28, it had increased investment in the nation's public works infrastructure by more than \$5 billion over the previous year. That small progress is a pitance when related to needs.

Although the economic realities identified for President Bush and Congress by AGC in early September are now more widely understood, I am confident that our country has the means if we will acquire the will to return to sustained growth in our economy.

As has always been true, construction is the primary engine of economic growth. It is incumbent on the construction industry, and all industries dependent on construction's good health for their own well being, to intensify our messages to elected officials that huge increases in investment in our stock of public works infrastructure are essential to: maintain that which is already in place; improve our current stock;

and begin now to catch up on the backlog of clearly identified needs. The employment opportunities that will flow from such investment will be boundless, and infinitely more beneficial and long-lasting than "jobs bills" that are the usual short answer to economic problems.

The courage, steadfastness and resolve demonstrated by President Bush in freeing Kuwait is just one manifestation of what the United States can do when strong leadership identifies the public interest and serves it. In my opinion, it is now time to turn that same determination, steadfastness and courage to addressing our economy. It is my hope that Congress will recognize that unity of purpose, bipartisanship, rejection of legislative proposals that would divide our nation and adoption of legislative proposals that will result in investment in our economy are the actions that must now be taken in the public interest.

Within the construction industry, I believe that better relationships exist between the leaders of construction associations than ever before. These relationships are going to be essential in meeting the challenges and availing of the opportunities that are ahead for our industry. I have no doubt that we will meet our challenges and grasp our opportunities.

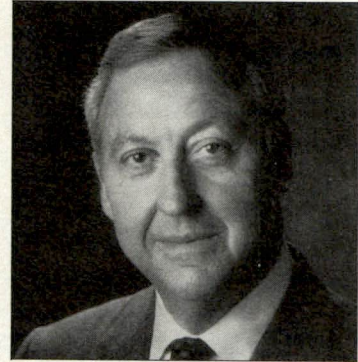
During the past year, AGC has maintained its opposition to any form of special preference in the award of taxpayer financed construction contracts. Our opposition is undergirded by the consistency of having opposed special preference set-asides that favored the majority of us. That consistency carries over to our opposition, which will also succeed, to competitive negotiation which is another form of special preference extended to those with whom the agencies prefer to contract. AGC's position on

public construction is: open competition with bids publicly opened and awarded to the lowest responsive and responsible bidder. That position will prevail because it serves the public interest.

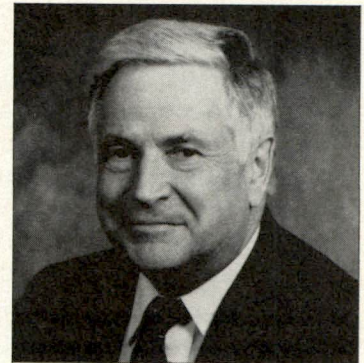
On a personal note, I was privileged last month to be a recipient of ENR joint awards with Dominic L. Ozanne, President of the National Association of Minority Contractors, for our efforts to build bridges of understanding between AGC and NAMC. It is mildly ironic that 10 years earlier ENR similarly honored me for the legal challenge to the SBA 8(a) program in the Lower Mississippi Valley. After 10 years in pursuit of justice, the courts ruled against the government. The only issue awaiting determination is reimbursement of our substantial legal fees. My point in referencing this is that adherence to principle is not incompatible with the direct and sequential actions that are inherent in our industry. I am confident that the day will come when the rights given to all in our glorious Constitution will be unabridged, absent asterisks, absent "yes—buts" and warmly embraced by all in a one-nation America.

During my term at the helm of this great enterprise, AGC, I have received and fully appreciate unwavering support from our Officer corps of Senior Vice President Marvin M. Black, Vice President Robins H. Jackson, and Treasurer Chris F. Woods. On Tuesday, March 19, I will be turning over a strong, effective and respected AGC to Marvin Black secure in the knowledge that AGC will be in good hands. My support for it and what it stands for will continue. With that commitment is my heartfelt appreciation for the leadership opportunity you good people provided me. May God continue to bless you and America.

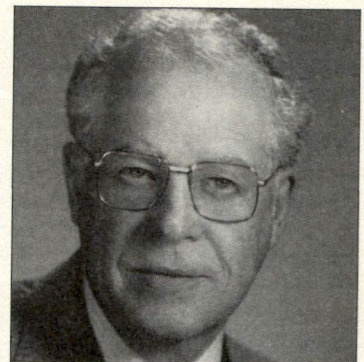
— Kirk Fordice, *President*



Marvin M. Black



Robins H. Jackson



Chris F. Woods

EXECUTIVE VICE PRESIDENT'S REPORT



Institutional result of almost three quarters of a century of AGC at work.

There have been times during the past year when, if affordable, it would have been a privilege to pay instead of being paid to be Executive Vice President of the Associated General Contractors of America. Examples: numerous meetings at the White House and meetings in small groups with President Bush immediately before, during and at the conclusion of his successful effort to free Kuwait; accompanying your President Kirk Fordice to meetings with overseas contractors in Amsterdam and Tegucigalpa; being with AGC leadership for the fourth time in six years when the President of the United States addressed them at the White House; accompanying President-Elect Black earlier this month to the Annual Seabee Ball; and contact with power centers in America.

To some, this perspective on association management might seem trite, but is cited in an attempt to make larger points. On all such occasions, minimum thought brings realization that being in exalted company is a

function of the job, **and the institutional result of almost three quarters of a century of AGC at work.** Yet, it is a heady feeling to be at the center of things when the seeds ripen that others have sown.

AGC's 1990-1991 year was one in which:

- Budgeted amounts were exceeded in minimum, volume and National Associate Member dues categories;
- An AGC victory was scored with the repeal of the estate valuation rules in Section 2036(c) of the Internal Revenue Code which had made it prohibitively expensive to transfer a closely held business from one generation to the next.
- Congressional testimony was prepared and given to Congress on 29 separate occasions.
- President Bush's veto of the Kennedy/Hawkins Quota Bill was sustained.
- Federal funding for construction increased by \$5 billion over the previous year.
- The Supreme Court's *J.A. Croson* decision secured by AGC resulted in at least 18 similar decisions by lower courts.
- Costly family and medical leave legislation was prevented.
- Punitive legislation that would have vastly increased criminal penalties for violation of OSHA's standards was slowed but resurfaces in the 102nd Congress.
- Multi-thousands of copies of "An Owner's Guide to Saving Money by Risk Allocation," jointly developed by AGC and ACEC, have been distributed throughout the industry ex-

plaining to owners the importance and benefits of properly assigning risks among the construction team.

- AGC's efforts to prevent the Wetlands issue from continuing to adversely impact construction include:
 - Comments to the White House Domestic Policy Council which is reviewing the government's Wetlands policies;
 - Testimony before the House Small Business Committee on the adverse impact the government's current "no-net-loss" of Wetlands policy is having on the construction industry;
 - Opposition to an effort by the Corps of Engineers to significantly increase permit and other fees associated with its Wetlands regulatory program;
 - Opposition to a joint initiative of the Defense Department and Environmental Protection Agency to increase enforcement of the government's "no-net-loss" of Wetlands policy; and
 - Support of legislation to ensure that the government's Wetlands policies are not allowed to become a de facto policy of "no-new-growth."



AGC SAFETY SERVICES

- Safety services were expanded by the addition of six videos: Safety: The Bottom Line; The Winning Ticket; Housekeeping on the Jobsite; Take Charge: Working Safely with Temporary Electricity; Hazard Communication Training Video and Instructor's Manual; On Solid Ground: A Plan for Safe Excavation and Trenching; and The Choice is Yours: Guide to Personal Protective Equipment.
- AGC's Guide for a Basic Company Safety Program was reprinted to meet heavy demand within weeks of its initial publication.

AGC's commitment to the 90's as the Decade of Safety and Health will intensify because:

- It is a moral commitment and obligation to employees;
- Construction contractors and owners recognize the economic impact on business costs and survival when Experience Modifier Rates determine eligibility for contracts; and
- Escalating costs of health care, combined with the prospect of punitive legislation, will result in mandatory measures, all of which are preventable by dedication to safety and health.

Accordingly, AGC will increase its safety videos this year to a total of 15 by the addition of

safety videos on subjects such as:

- Stairways and Ladders;
- Jobsite Safety Inspections;
- Accident Investigation;
- Confined Space Entry;
- Fall Protection;
- Scaffolds;
- Hazardous Waste Safety;
- Drug Free Work Place; and
- Emergency Preparedness.

In addition, AGC is making available to all other national construction interests, without charge, a reproduction copy of Safety: The Bottom Line. This excellent video was produced by AGC with the aid of a grant from The Business Roundtable (BRT) that was part of BRT's Construction Industry Safety Excellence Award to the association.

- AASHTO responded favorably to AGC's recommendations regarding the open competitive bid system in the federal-aid highway program.
- The Foreign Buildings Office at the Department of State dropped competitive negotiation in favor of open competitive bidding on embassy construction projects.

- Foundations were put in place for AGC's efforts to secure legislation to limit the use of competitive negotiation on federal construction projects.
- AGC had a leadership role in the successful effort to have the National Association of Attorneys General withdraw model construction and design contract documents for public works projects.

- Efforts continued to ensure that Congress reauthorizes the nation's federal-aid highway program on time and at necessary funding levels.
- Work continues to increase federal capitalization funding for state clean water revolving funds and to continue federal funding beyond 1994 for this program.

- AGC was successful in retaining government safeguards that will prevent abuses of individual sureties.
- AGC efforts to prevent improper interpretation of the Davis-Bacon Act include:
 - Four friend-of-the court briefs in support of AGC member Midway Excavators in its challenge to Davis-Bacon coverage for over-the-road truck drivers and financial assistance to the AGC of New Hampshire on the same issue;
 - A friend-of-the court brief in support of AGC member Ames Construction in a similar challenge to Davis-Bacon coverage;
 - A friend-of-the-court brief in support of AGC member Aleutian Constructors in support of its challenge to Davis-Bacon coverage of construction camp workers;
 - Consistent support for regulations, now issued, that will permit contractors to employ helpers on Davis-Bacon projects; and
- Consistent support for wage surveys that will bring Davis-Bacon requirements into line with actually prevailing wages.
- AGC's wide range of meaningful services is repeatedly and beneficially brought to the attention of the industry as part of the association's marketing program.
- AGC has continued to work harmoniously and effectively in coalitions with construction and business community interests recognizing that getting the job done transcends profile.
- Cooperative liaison continues to grow on numerous fronts with construction unions out of mutual and growing recognition that it is to the benefit of the entire industry to work together on issues where common views jointly presented have better prospects of prevailing.
- Progress is being made with the Corps of Engineers in the development of a joint Corps-Industry Alternative Dispute Resolution Training Program.
- Progress has been made in working with subcontractor and specialty contractor organizations on industry issues including bidding procedures, cash flow and project close-out procedures.
- Work is virtually complete on a guide to assist AGC members in pursuing the underground storage tank removal, clean up and installation market and in understanding EPA's underground storage tank regulations. This market is estimated at \$90 billion to clean up 1.5 million leaking tanks.
- Expansion has occurred of AGC work with agencies such as the Federal Bureau of Prisons, the Department of Veterans' Affairs, General Services Administration, Department of Interior, Soil Conservation Service, Naval Facilities Engineering Command (NAVFAC), the Postal Service, Federal Highway Administration, and Corps of Engineers.



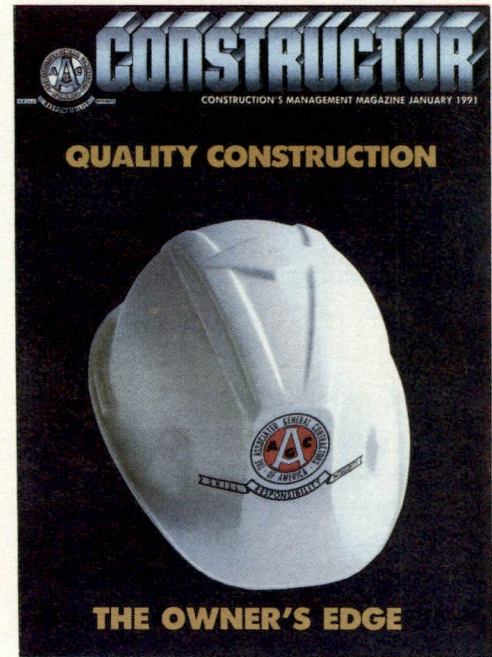
At the center of things -- White House welcome for AGC's Sixth Annual Convention in Washington, D.C. in 1925 with President Coolidge.

- The association's committee structure continues to serve the industry by identifying and addressing problems in their early stages so that the resources of AGC at the chapter and national levels can be focused on such problems.
- AGC's strength continues to be built by the expansion of the National Associate Member Program. Just one example of the benefits from this is the leadership role of the National Associate Members Council in helping defeat the Kennedy/Hawkins Quota Bill under the direction of Chairman Steve Dunlap.
- AGC Chapter Managers work cooperatively with each other, with their national staff colleagues and with executives at other business groups to advance construction interests.
- AGC's Education and Research Foundation has, in addition to making STP (Supervisory Training Program) the industry success story, invested in the future by the award of scholarships to those who will be the industry of the future. Such scholarships awarded to date

exceed \$2,600,000 and are paralleled or exceeded at the chapter level.

- AGC conference programs have continued successfully with continued recognition for the effectiveness of the Advanced Management Program that has been sold out on nine successive occasions.
- Progress continues to be made with the Tennessee Valley Authority with the objective of having its construction projects put on the market for open competitive bidding instead of being constructed with in-house forces.
- Development of the future construction workforce continues as a priority throughout the association through methods such as joint apprenticeship programs, unilateral training, and attracting youth to construction careers through the work of the Construction Industry Workforce Foundation.
- Efforts continue with the Corps of Engineers and Bureau of Reclamation to improve the Corps' equipment cost guide.

- *CONSTRUCTOR* magazine has been effectively availed of to bring market opportunities to the attention of the membership, and to advance membership interests with owners.



- Cooperation with The Business Roundtable and other owner interests continues as part of AGC's market advancement activities.



- AGC efforts have resulted in the revitalization of the Rebuild America Coalition under the leadership of Atlanta Mayor Maynard Jackson.



Rebuild America Chairman Jackson and Kirk Fordice.

- AGC's Political Action Committee (PAC) has continued its effectiveness. Without the PAC, your association would be at a competitive disadvantage with others in the political process. While much ink has been spilled alleging undue influence by PAC's on Congress, there has been a parsimonious use of ink to describe the "in-kind" or "door-to-door" activities of others involved in politics. Also generally ignored by critics of PAC's is the constant close scrutiny given to every aspect of their operations by the Federal Election Commission. Bottom lines: the importance of AGC's PAC cannot be overstated; when its importance becomes better understood, its support will grow beyond the 8% of the membership that supports it to the benefit of all.
- Current legislative challenges and opportunities facing the industry include:
 - **"So called Civil Rights Act of 1991"**—Introduced in the House as H.R. 1, the bill contains no provisions addressing business and industry concerns about unlimited punitive and compensatory damages and is drafted in such a way as to force employers to hire by quota and result in a litigation explosion;
 - **Surface Transportation Assistance Act Reauthorization**—This legislation presents the industry with the opportunity to increase funding levels for vitally needed federal transportation programs;
 - **Water Quality Act Reauthorization**—In addition to providing the industry with an opportunity to obtain additional funding for the State Revolving Loan program, this legislation presents an opportunity to address the Section 404 and Wetlands issues;
 - **Striker Replacement**—This is the lead labor-management issue now being pursued by labor. This legislation would prohibit employers from hiring permanent replacements during an economic strike. It also would greatly increase the ability of labor to organize non-union firms;
 - **Davis-Bacon Reform**—AGC will continue to support legislation to increase the dollar threshold for application of the Davis-Bacon Act to federally funded construction projects and oppose legislative efforts to expand the Act's coverage beyond the site of the work;



Sue Loomis, AGC's Executive Director of Congressional Relations, meets with Rep. Robert Roe, Chairman of the House Public Works and Transportation Committee.

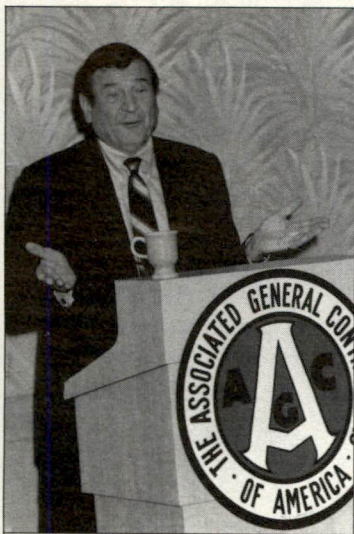
- **Legislation to Overturn *Croson***—Legislation to overturn the Supreme Court's landmark decision in *Croson* is expected to again be introduced and will be opposed by AGC and others; and
- **Federal Product Liability Reform—Workers' Compensation**—In the 101st Congress, a product liability reform bill was introduced, and it is expected that a similar measure will be introduced this Congress. The legislation, as introduced last year, would have had a devastating effect on the nation's already weakened workers' compensation system. The legislation would have reduced product liability claims by the amount of workers' compensation a claimant received and would have effectively eliminated the rights of subrogation by the employee or its in-

surance carrier against the manufacturers. The challenge to the industry is to ensure product liability reform.

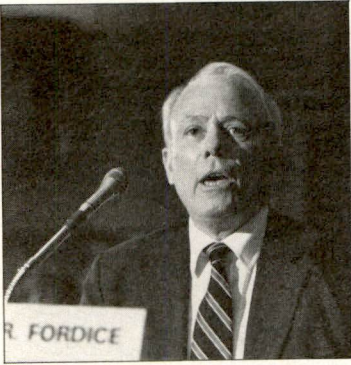
- **Indemnification for Construction Contractors Performing Superfund Clean Up Work**—Following AGC success in the last Congress to increase the availability of surety bond producers on Superfund work, AGC continues to advise and persuade Members of Congress on the constraints that the lack of adequate indemnification for contractors places on the ability to develop a strong, competitive market for this work. AGC will look for an opportunity to advance an indemnification proposal;
- **Pension and Tax Code Simplification**—Legislation to achieve these goals is being introduced again this Congress. Areas to be addressed include: minimum participation requirements; definition of highly compensated employees; definition of leased employees; the burdensome lookback method;
- **Family and Medical Leave Bill**—This legislation, which passed last year but was successfully vetoed by the President, has again been introduced. AGC's main objection remains that the implementation

of provisions is **mandated**, allowing no flexibility in the development of benefits, and limiting the choices an employer will have in how to allocate limited resources for benefits;

- **Construction Safety and Health "Reform"**—This issue has reappeared for the third time in Congress. The challenge will be to keep additional paperwork requirements, and other burdensome provisions such as the requirement for construction safety specialists, out of any legislation that may be passed. If such legislation does advance, it provides an opportunity for the industry to enact provisions on employee accountability and drug testing;
- **Criminal Safety and Health Penalties**—AGC will continue to strongly oppose counterproductive legislation that will greatly increase criminal penalties for violations of OSHA standards;
- **Competition in Contracting**—AGC continues to convince Members of Congress on the best and preferred procurement method for the construction industry on work financed by tax dollars...competitive sealed bid. This effort is underway to counter the increasing use of competitive negotiation by various agencies.

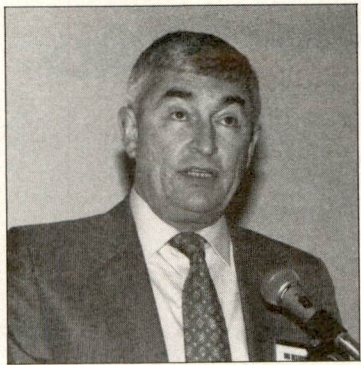


House Committee on Ways and Means Chairman Dan Rostenkowski addressed AGC's Tax and Fiscal Affairs Committee in January.

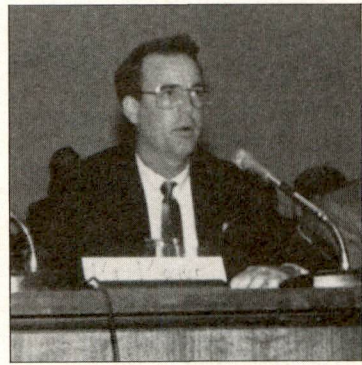


AGC President Kirk Fordice testified before Congress on four occasions:

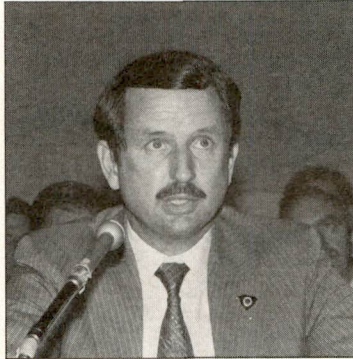
- On FY 1991 Military Construction Appropriations.
- On the Surety Association Act of 1989.
- On the Construction Safety, Health and Education Improvement Act.
- On Civil Penalties for OSHA Violations.



AGC Highway Division Vice Chairman Robert Desjardins, Cianbro Corp., Pittsfield, Maine, testified before the House on Transportation Trust Funds.

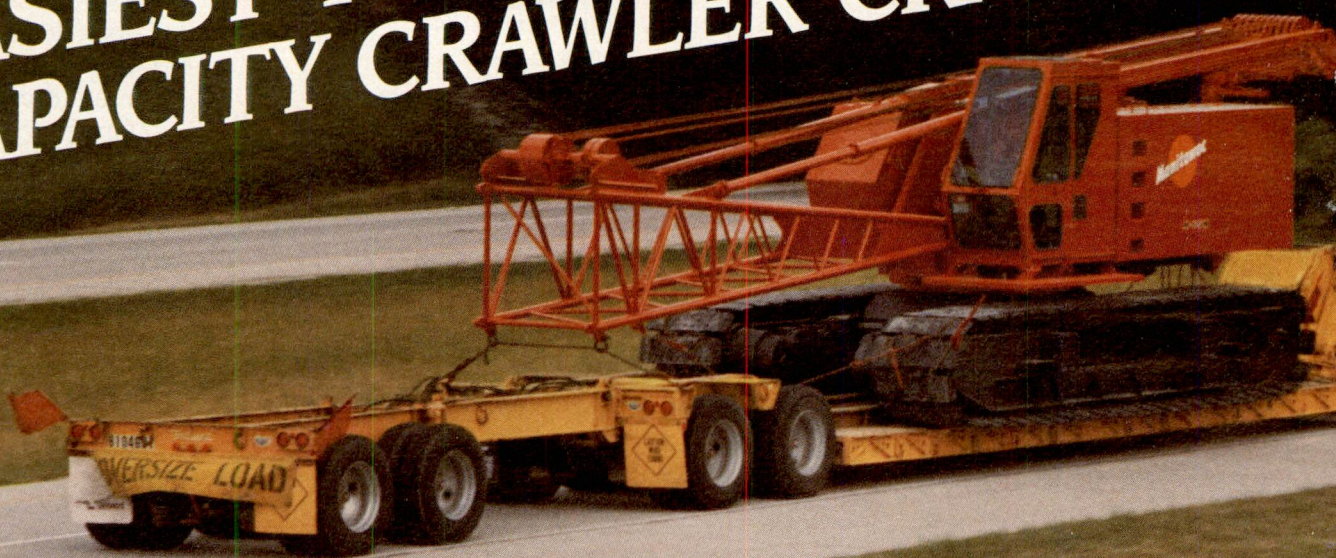


Robert Bostic, Forterra Corp., Norfolk, Va., testified before the House on Wetlands.

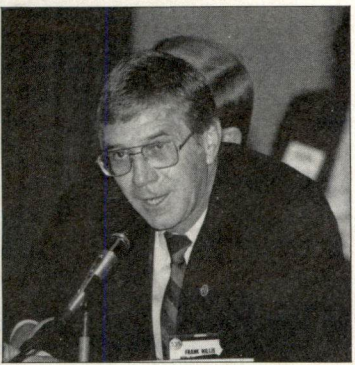


AGC Municipal/Utilities Division Chairman Sam Hunter, T. A. Loving Co., Goldsboro, N.C., testified before Congress on three occasions regarding funding for the EPA's State Revolving Fund for construction of wastewater treatment facilities.

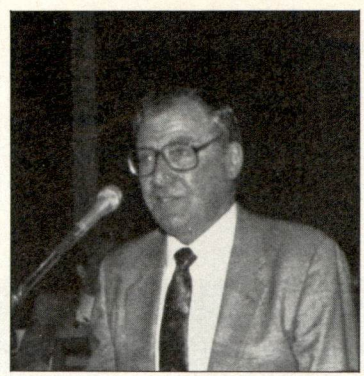
NORTH AMERICA'S EASIEST-TO-SHIP 75-TON CAPACITY CRAWLER CRANE...



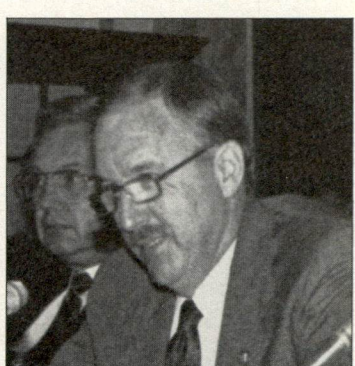
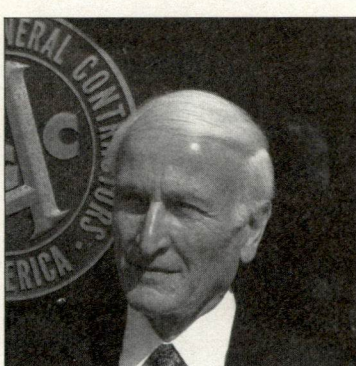
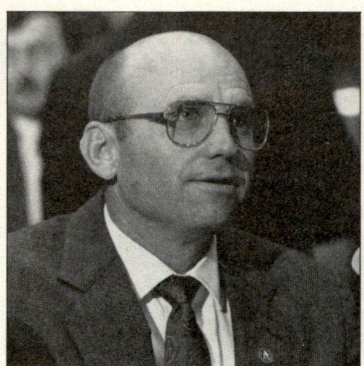
BUSINESS IN CONGRESS



AGC Highway Division Chairman Frank Willis, Willis Construction Co., Florence, S.C., testified before the House on FY 1991 Department of Transportation Appropriations.



Warren Diederich, Industrial Builders Inc., Fargo, N.Dak., testified before the House on lack of availability of surety bonding for Superfund and other federal hazardous waste clean-up programs.



Three AGC members testified before Congress on the Valuation of Transfers of Family Businesses, urging repeal of IRS Code Section 2036(c). Pictured above, left to right, they are: Steve Massie, Jack L. Massie Contractors, Inc., Williamsburg, Va.; Frank A. Merlino, Darmody, Merlino and Co., Boston, Mass.; and David Lambert, Lambert Construction, Stillwater, Okla.

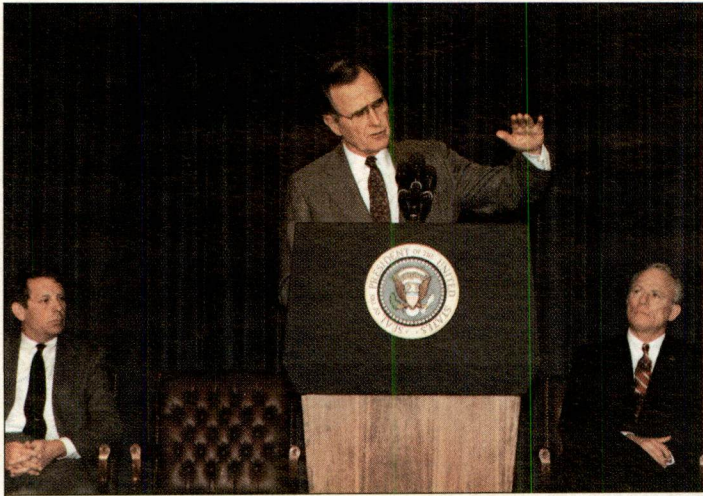
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Transportation Secretary Skinner and President Fordice listen.



The President greets AGC President-Elect Marvin M. Black.

At the outset it was acknowledged that today's AGC access to the centers of power is the institutional result of almost three quarters of a century of AGC at work.

In four of the past six years, AGC national and chapter leaders were addressed at the White House by the President of the United States.

During the past year, I was privileged to accompany President Fordice and Senior Vice President Black to a private meeting with President Bush prior to his addressing AGC national and chapter leaders on April 24.

President Fordice, and a few other leaders of major industries, met at the White House on June 12 with Chief of Staff John H. Sununu and Dr. Roger Porter, Assistant to President Bush for Economic and Domestic Policy, on the Kennedy-Hawkins Quota bill.

On February 13, I was again privileged to return to the White House with AGC's Kirk Fordice

when President Bush and Secretary of Transportation Sam Skinner previewed the Bush Administration's Transportation Plan.

My other participation in White House meetings since your last Convention: March 27 meeting with Chief of Staff Sununu on Child Care Legislation; October 1 with Vice President Quayle and Chief of Staff Sununu on Budget and Deficit Reduction; November 28 for President Bush's signing of Affordable Housing Legislation; December 21 meeting on Budget scoring provisions with White House officials; December 19 with President Bush on Operation Desert Shield; January 24 meeting with Chief of Staff Sununu, Dr. Roger Porter and Ms. Bobbie Kilberg on the State of the Union, Budget and related matters; February 26 with Chief of Staff Sununu, Dr. Porter, Ms. Kilberg, White House Counsel

Boyden Gray and Mr. McClure on Striker Replacement, Parental Leave and Civil Rights Legislation; and February 26 with President Bush at a Roosevelt Room meeting.

In addition, my staff colleagues have attended White House meetings this AGC year on seven occasions.

Your staff is totally devoid of illusions and knows that whether AGC access is to the White House, government agencies or America's other power centers, it is just that . . . AGC access through your political involvement, your value and consequence in your communities, and your top and bottom line commitment to Skill, Integrity & Responsibility.

—Hubert Beatty,
*Executive Vice President
Associated General Contractors
of America*

A YEAR OF CHALLENGES

PRESIDENT BLACK ESTABLISHES HIS AGENDA FOR AGC

The following speech was delivered by AGC President Marvin Black at his inauguration at the AGC Convention in Honolulu, Hawaii.

Ladies and gentlemen, I am really looking forward to starting my job as AGC's new President.

The first part of that job is a speech entitled, "Objectives...1991."

But I am not ready to go to work for just a few minutes, because I must first tend to some very important family business.

Failure to meet that family obligation would get me off to a bad start from which AGC would recover, but would give me considerable problems with another very large group.

First and foremost, I want you all to again meet my bride of 47 years, Joanne, in whom I am well pleased! And I'd like you to meet my sons, Mike and Steve, and my daughters, Laurel and Jennifer.

I am now ready to go to work, and I will start that process by asking all of you for your support in helping me meet my objectives for the Associated General Contractors of America during the next 12 months.

My immediate objective is to leave no stones unturned and to leave no fields unplowed so that a year from now it can be said of me, as I now say of Kirk Fordice:

- He was open and direct;
- He knew that as important as AGC is, the construction industry comes first;
- He had principles. He had strong views. He was determined but, above all else, he knew and valued that our association is one huge family of multi-faceted interests...of good people from great companies who freely associate

under the banner of AGC to advance our industry;

And finally, I hope it will be said of me, as I say of Kirk Fordice...he is a gentleman.

On Saturday, at the Opening General Convention Session, I gave a little detail on 10 specific objectives for the coming year as follows:

- Build construction quality;
- Build owner confidence in AGC members;
- Build strong relationships with all construction industry groups;
- Build legislative strength and effectiveness;
- Build coalitions to secure adequate investment in the nation's entire stock of public works infrastructure;
- Build the construction industry's image;
- Build a reputation as an industry with total dedication and commitment to the safety and health of our workforces;
- Build relationships with all public awarding agencies;
- Build industry awareness of the value of AGC membership; and
- Build industry ethical standards.

I regard these as remarkable, even historic objectives.

They are remarkable and historic because they are the deep roots of every objective of the Associated General Contractors of America since our association was established in 1918.

In meeting these objectives over the years, the good people who built AGC were building an effective trade association that is respected by every interest with which we communicate under AGC's banner of Skill, Integrity, and Responsibility.

Our association is respected because the policies we establish, the objectives we seek, and yes, even the positions we

often have to defend, have to meet that important criteria of Skill, Integrity, and Responsibility.

In every single AGC endeavor down through the years...in every AGC accomplishment...the Skill, Integrity, and Responsibility we espouse and hold high has served our industry well.

Back in 1918 when much of our country was still an abundant frontier, our Skill, Integrity, and Responsibility helped carry us forward on the rush of growth that ground to a halt with the Great Depression.

Our industry and association survived that tough experience, and we were carried forward on another rush of opportunity in the war-related construction of the early 1940s.

Our industry and association began to surge, grow, and gain strength in the mid-'50s, driven by the most massive and successful public works program in history...the construction of the Interstate Highway System.

We established superb links between our cities, to the outer regions of our frontiers, and the consequences of our work were that the comforts of our citizens were the envy of most of the earth.

We built new skylines in our metropolitan areas. We built shopping centers that thrived on the abundance of our society...but we also helped build something else.

Dare we say it? Should we dare say, or even acknowledge, that we also helped to build a complacency that is now a threat to all of us?

When I use the term "we" I do not mean just us, because there were lots of co-conspirators in our country who helped build a complacency that could become a millstone around America's neck.

(continued)

Only a few weeks ago, and with great pride, we rediscovered that America had the will, the means, and the technological know-how to send Iraq packing from Kuwait.

But, before that awesome display of will, determination, and technology, there were those in our society who were complacent and who did not really believe that these United States could measure up.

With full understanding of the meaning of complacency, let me suggest that some of the areas in which our industry could be accused of complacency might be:

We had to respond to market forces, and so our industry shifted from being one where contract construction was largely done under collective bargaining agreements.

Is it possible that complacency prevented us from attracting and training the construction workforce that is no longer coming from its traditional sources?

How did we get to the point where safety and health is a major item on the agenda of the Congress of the United States and in many state capitals? Was it because we had become complacent on the subject of safety and health, or was it because we had become complacent about telling the industry, telling Congress, and telling the public what we were actually doing to advance and protect the safety and health of our workforces?

Was it complacency that saw insurance rates skyrocket even as coverage dropped?

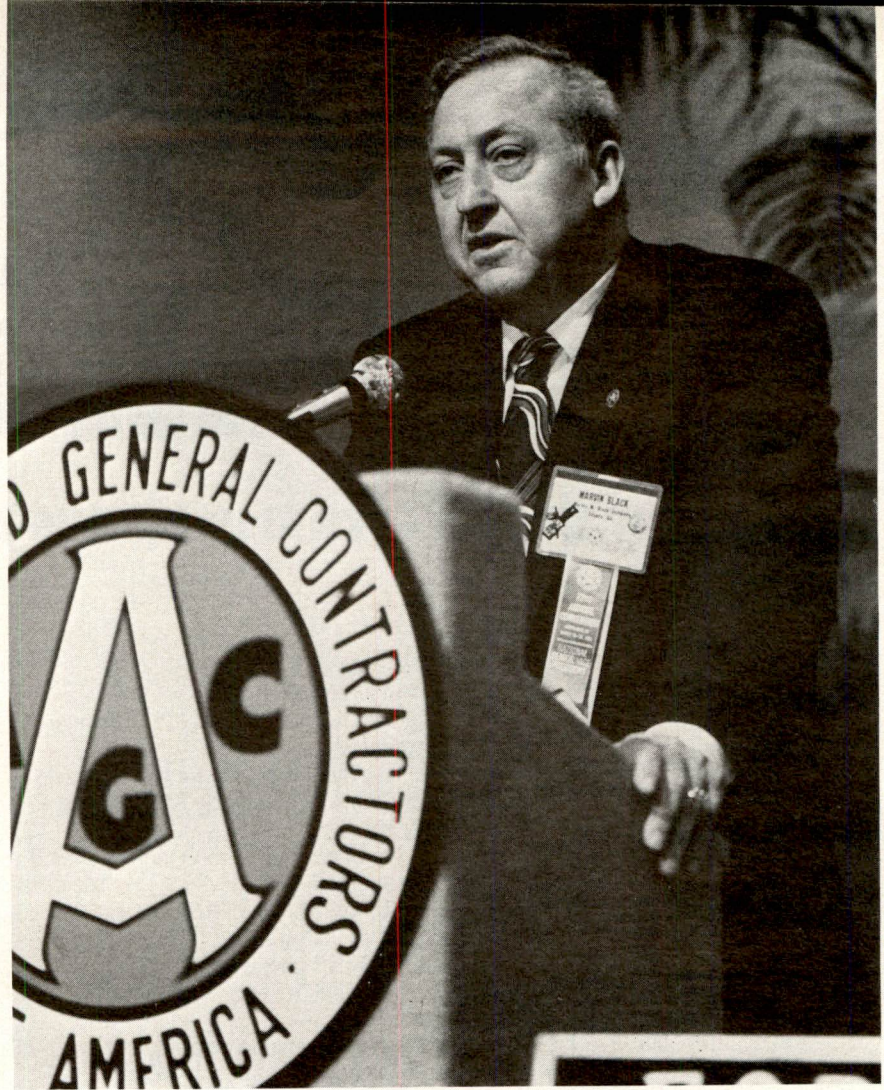
Perhaps it was not complacency at all. Perhaps it is just possible that we had become accustomed to, and comfortable with, the age of abundance.

But it is just possible that even our industry could have become caught up in the syndrome that the piper would never have to be paid.

If it was not complacency, what then was it that allowed us smart business people to assume so many risks that lack of complacency would have placed where they belong?

How did "fuzzy" language creep into the industry's contract documents and to the point that even the National Association of Attorneys General thought it had the credentials to draft its now-withdrawn model contract documents for public works construction?

If it was not complacency, then



what was it that has brought our industry to the point where there is a too widespread belief and reality that attorneys, whether they serve the construction industry or prey on it, are now the success stories of the industry while we increasingly become caught in the vise of diminishing returns?

It is this basic concern with—and desire to do something about it—the litigation explosion that is a cancer in our society and a plague on our industry, that is driving some of the objectives I talked about on Saturday, referenced at the outset and now repeated again:

- Let us build construction quality;
- Let us build owner confidence in AGC members;
- Let us work to build strong relationships with all construction industry groups;
- Let us build the construction industry's image;
- Let us work to build a reputation as an industry with total dedication and commitment to the safety and health of our workforces;
- Let us work to build industry awareness of the value of AGC membership; and
- Let us work to build industry

ethical standards.

I have a great aversion to pessimism, and a boundless optimism in the future of our industry and our nation, but I venture to suggest that even the most abundant society cannot sustain the costs of fractiousness, disputes, ineffective relationships, inadequate image, or of failing to raise our industry's ethical standards.

AGC's history demonstrates the good judgement of people who preceded me in this office in identifying the issues important to our industry.

Let me remind you of just a few of them.

In 1971, the essence of John Healy's message was, "A fair day's work for a fair day's pay." You are aware of the shifts in workforces that have occurred because that caution was not sufficiently heeded.

In 1972, Jim McClary stressed that we get back our right to manage.

In 1973, Nello Teer was determined to build "contractor power" and he set about it.

In 1979, and long before it became the problem it is today, Paul Howard had great concerns about industry profitability.

In 1982, Tony Heldenfels determined

that AGC was going to push investment in construction. And he did!

A year later, Richard Pepper properly kept up a drum beat to secure cost-effective construction.

In 1984, Doug Pitcock advanced the economic importance of construction and was followed in 1985 by Vernie Lindstrom's program of concentration on construction as the opportunity industry... which it still is!

In 1986, Dick Hall sounded a clarion call for quality in construction, pointing out that quality inspires confidence.

In 1987, Dan Huestis brought AGC resources to wider attention by having the industry engage in a competition of ideas.

Jim Supica advanced the importance of political activism, Paul Emerick began to make the industry focus on its future workforce needs, and Kirk Fordice re-established that everything we do is, and has to be, done in the public interest.

In many ways, the underpinning of my objectives goes back to Richard Pepper's advocacy for cost-effective construction.

He had the vision to know and the courage to acknowledge that the customer is boss, is always right, and has to be pleased.

His foresight also recognized that the day would come when owners, driven by world competition to become more cost-effective, would begin to focus on all factors adversely impacting costs.

And so it came to pass that today's owners have more than a passing interest in the experience modification rates of construction contractors.

In fact, the day is here when those whose safety records do not measure up may have difficulty, severe difficulty, in even obtaining consideration from prospective owners. It's known as the "don't call us—we won't call you" syndrome.

A message we have heard, over and over, here in Honolulu, is that safety, or the lack of it, and the soaring workers' unemployment compensation costs associated with insufficient safety controls, is now a problem of major proportions.

AGC is trying to do something about that problem by the expansion of our safety services and by heavy emphasis to our members, and to all in the industry, to give increased attention to safety.

We are still the abundant society, but not abundant to the point that business

comes rolling in the door.

Just as it is now a fact of life that experience modifier rates are becoming the cutting edge that will prevent some contractors from getting work, my fear is great that the day will come when our owners will become as sophisticated about the cost impact of litigiousness as they are already demonstrating in the safety and health field.

In my opinion, the time has arrived when all in our industry must work together—and in fact become partners together—in eradicating every vestige of needless litigiousness in our industry.

“We must find the very best ways to secure open communication with our partners in the construction process.”

Let us work together to improve all contract documents to free them of points of contention.

Let us work together, and with others, to ensure that contract documents clearly place responsibility where it belongs.

Let us pick up the ball and run with it to secure a renaissance of the partnering concept that was really the underpinning of the construction industry in the old days when so much business was and could be done on a handshake.

I want AGC to develop a model partnering program for use by all the industry that will delineate the basic and easy steps that can be taken to reduce the litigation that can crush our industry.

Successes with the partnering concept were evident at the special seminar on the subject a few days ago and demonstrate that partnering can be effective on large projects.

My interest in the subject starts with smaller projects where either failure to communicate or lack of communication can result in expensive litigation or expensive, inconclusive arbitration or alternative dispute mechanisms.

Earlier I introduced some of the younger members of the Black family. We older people already know what they are learning.

They are learning that the vast majority of the people in our industry are honest and industrious people.

They are learning too, and paying the same hard price we paid, that there are those who prey on our industry, who cut corners, who have others carry them, who seek unfair advantage at every opportunity, and whose conduct reflects unfavorably on the honorable people who are the vast majority in construction.

One other thing these young people are learning—and it is ironic we are learning it at the same time—is that in this age when we are swamped with information, good systems of communication have broken down.

The single word “communication” is what partnering is all about.

We must find the very best ways to secure open communication with our partners in the construction process.

We must secure their trust and embed in them similar trust in us.

We must identify, one to the other and up front, potential problem areas on the job so that they do not become actual problems.

Just as owners with concerns about a contractor's dedication to safety have the attitude “Don't call us—we won't call you,” let's have that as one of our goals for any termite in the legal profession.

To my way of thinking, there is little difference in being caught in either the vise of litigation, the vise of arbitration, or the vise of alternative dispute mechanisms when the consequences of any one of them put our businesses in jeopardy.

In working to justify and reward the confidence that our association has accorded me, I guarantee fair, open, and full attention to the multiple interests that comprise this great trade association.

I seek your support in all of my endeavors and pledge to you that you will not find me wanting in my determination to meet your exacting standards in accomplishing AGC's mission and in serving our industry with Skill, Integrity, and Responsibility. □

AGC....QUALITY....SERVICE

CONTRACTORS' UNDERGROUND STORAGE TANK INFORMATION GUIDE

Federal law requires the clean-up of 1,500,000 leaking underground storage tanks and AGC is working to help its members in securing access to this \$90 billion market.

AGC's newest publication explores the risks, requirements and opportunities associated with this expanding construction market and includes:

- Information Defining the Market
- Constraints to Market Entry (Certification Reporting/Testing Financial)
- Tank Installation Options
- Environmental Concerns

This AGC publication provides basic information that construction contractors must be knowledgeable of before entering this market. **The publication is not intended to be a "how to" book that spells out what it takes to be successful in this market.**

Contractors' Underground Storage Tank
Information Guide
36 pages, No. 1181

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For the complete **Supereight** story request Bulletin 268.

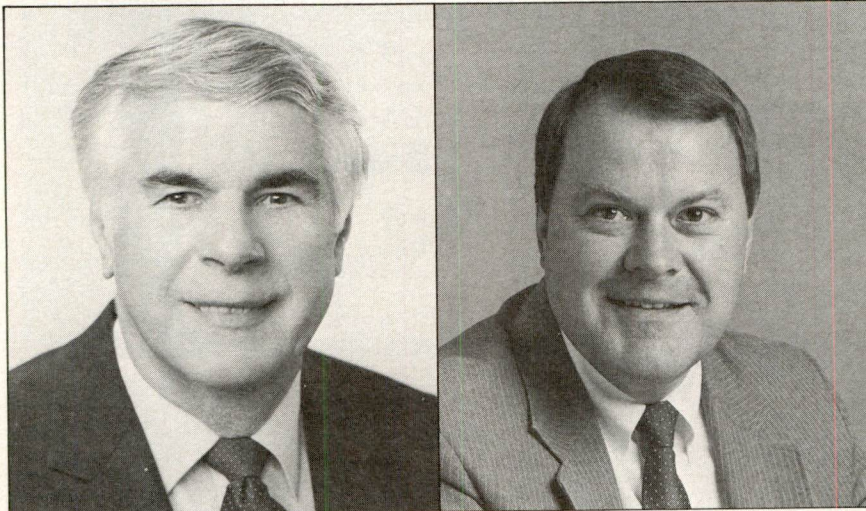
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SUPEREIGHT™ PROTECTIVE CAPS



THE HIDDEN COSTS OF JOBSITE ACCIDENTS

A POOR SAFETY RECORD CAN BE MORE EXPENSIVE THAN YOU THINK



Michael Timura, (left) AGC's Safety and Health Committee Chairman, and Paul King, AGC's Safety Engineers Advisory Committee Chairman, were selected jointly as AGC's national Committee Chairmen of the Year. (Also honored were co-winners Bud Madigan of the Collective Bargaining Committee and Lou Selig Jr. of the American Consulting Engineers Council/AGC Joint Committee.)

CRIMINAL CHARGES FOR SAFETY VIOLATIONS

Criminal charges were brought against a construction company and its project managers for 12 misdemeanor violations of the Occupational Safety and Health Act in a 1988 explosion that killed three workers. The U.S. Attorney brought the charges shortly after an OSHA investigation. If convicted the company could receive a fine of up to \$6 million and its managers could receive up to \$1.5 million in fines and three years each in prison.

When news briefs such as this one appear in the media, the message seems loud and clear: *Safety violations and jobsite accidents can be costly to construction contractors.* In addition to heavy fines and possible imprisonment, contractors may face other unexpected expenses if their safety programs are not in order.

Most construction employers realize the moral obligation to protect their employees from jobsite hazards. However, many employers have not discovered how reductions in safety

violations and accidents can result in improved profit. Safety requires the protection of personnel and property. Either can be very expensive to repair and/or replace.

Establishing and implementing a sound company safety program will be beneficial to a construction contractor of any size. Benefits include lower workers' compensation premiums, reductions in direct and indirect costs associated with workplace accidents, and, quite often, more competitive bidding capabilities.

UNDERSTANDING EXPERIENCE MODIFICATION RATES

The Experience Modification Rate (EMR) is the key to reducing workers' compensation premiums. EMR is multiplied by a "manual premium" to determine the actual premium rate. The manual premium is a set amount established by the insurance industry and is based on the type of construction work performed. Your EMR is determined roughly by dividing the (insurance industry predetermined) number of expected losses into your company's number of actual losses. In simplest terms, the lower the EMR the lower the workers' compensation premium.

Just how much of an impact does your EMR have on your premium? Keep in mind that *Workers' Compensation Premiums = EMR × manual rate* and that the average EMR is 1. Suppose the insurance industry's designated manual rate is \$10 on every \$100 of payroll for the type of construction your company performs. If your EMR is 1.9, you will be paying \$19 on every \$100 of payroll ($1.9 \times \$100$ per \$100 of payroll) while your competitors may be paying an average of \$10 ($1 \times \10 per \$100 of payroll). This means that if you have 30 employees with an annual payroll of \$600,000, your premium would be \$114,000. A similar-sized competitor with an average EMR would pay

\$60,000. That's a difference of \$54,000. If a similar-sized competitor has a good safety record and a lower than average EMR such as .5, its premium would be \$30,000 or one-half the average premium.

INDIRECT COSTS

Most contractors are fully aware of the direct cost of accidents, such as workers' compensation costs and medical expenses. Many contractors may not realize how many indirect or out-of-pocket costs also occur with each accident. Indirect costs include but are not limited to:

- lost productivity
- disrupted work schedules
- administrative time for investigations and reports
- training replacement personnel
- wages paid to injured worker(s) and other workers for time not worked
- clean up and repair
- adverse publicity
- third-party liability claims against the contractor
- equipment/property repair/replacement.

Suppose an employee falls from a defective ladder. The employer's costs could be:

- \$7,500 workers' compensation payment;

AGC'S NEW BASIC SAFETY PROGRAM

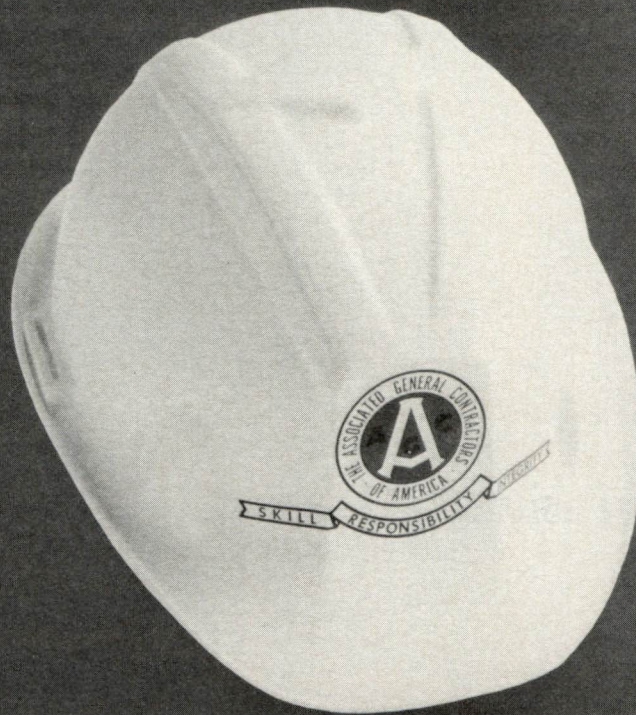
Should your company need assistance in establishing or upgrading its safety program, consult the "AGC Guide for a Basic Company Safety Program," available from AGC's Publication Department at (202) 393-2040. (Order publication No. 140, \$20 for members.)

The 39-page guide will assist contractors of all sizes in establishing and implementing sound safety programs.

AGC also has a continuously growing library of safety and health video tapes, including "Safety: The Bottom Line," which shows how safety and construction can be profitable to construction contractors by discussing Experience Modification Rates (EMR) and indirect costs associated with jobsite accidents.

For a complete catalog of AGC's Safety Publications and Videos, see the January 1991 issue of *CONSTRUCTOR*, pages 30 through 34.

AGC Guide For A Basic Company Safety Program



ASSOCIATED GENERAL CONTRACTORS OF AMERICA

"AGC Guide for a Basic Company Safety Program" is the place to start in creating or improving your company safety program. Order publication No. 140 from AGC at (202) 393-2040.

- \$8,500 in production loss;
- \$4,000 to replace the injured employee for a few weeks;
- \$2,600 workers' compensation premium *increase*;
- \$1,000 additional overhead costs;
- \$ 250 in foreman's wages for work connected with an accident;
- \$1,000 OSHA fines.

The total cost of the accident would be \$24,850. Workers' compensation insurance would pay \$7,500, but the remaining \$17,350 in indirect costs would be paid for out of the contractor's pocket.


Let's consider competitive bidding. Among contractors' costs for materials, equipment, and labor is the workers' compensation premium. While considering the dollar amount to bid on a project, that premium is calculated into the total costs of completing the job. If your

premium is higher than that of a competitor, chances are good their bid will be lower than yours. Many owners now ask to see contractors' documented safety programs and past safety records up front. The owners know that workers' compensation costs will be added to the total cost of the bid and often they will not accept bids from contractors without established safety programs and good safety histories.

It makes good business sense for companies to establish and implement sound safety programs. Doing so can reduce already outrageous workers' compensation premiums, eliminate unnecessary out-of-pocket costs, and make the company more competitive in the bidding process.

—By Pete Chaney, AGC's Safety Services

CONSTRUCTOR

A large-scale construction project is shown against a cloudy sky. A prominent yellow tower crane stands on the left, its lattice structure extending upwards. In the center, a massive concrete bridge pier is being worked on, with a large crane hook suspended above it. To the right, a curved concrete bridge structure is visible, with a sign that partially reads "EX". The overall scene depicts a major infrastructure project in progress.

**BOH BROS.
CONSTRUCTION
CO., INC.**

**SINCE 1909 . . .
BUILDING THE GULF SOUTH**



These New Orleans duplexes, still standing today, were built to fulfill Arthur P. Boh's first contract in 1909. With his brother Henry he went on to build a \$150 million business.

BOH BROS. CONSTRUCTION CO., INC.

Ln 1909, when Arthur P. Boh undertook his first "construction project," the building of four duplexes in a New Orleans neighborhood, little did he realize he was starting an enterprise that would grow in the following eight decades into one of the south's largest and most diversified construction companies. Even after his brother Henry joined him in 1913, the "company" barely eked out an existence on small drainage and sewage projects.

THE EARLY YEARS

When Henry Boh returned from serving in the Army in World War I, the Boh brothers were able to continue their modest progress through the 1920s and to hang on through the depression days

of the 1930s, when "survival" was the key word.

Boh Bros. established itself as the top underground firm during this period and also developed the pile-driving skills needed for the unstable soils of Louisiana. This knowledge and expertise enabled the firm to become the leading pile-driving contractor in the area.

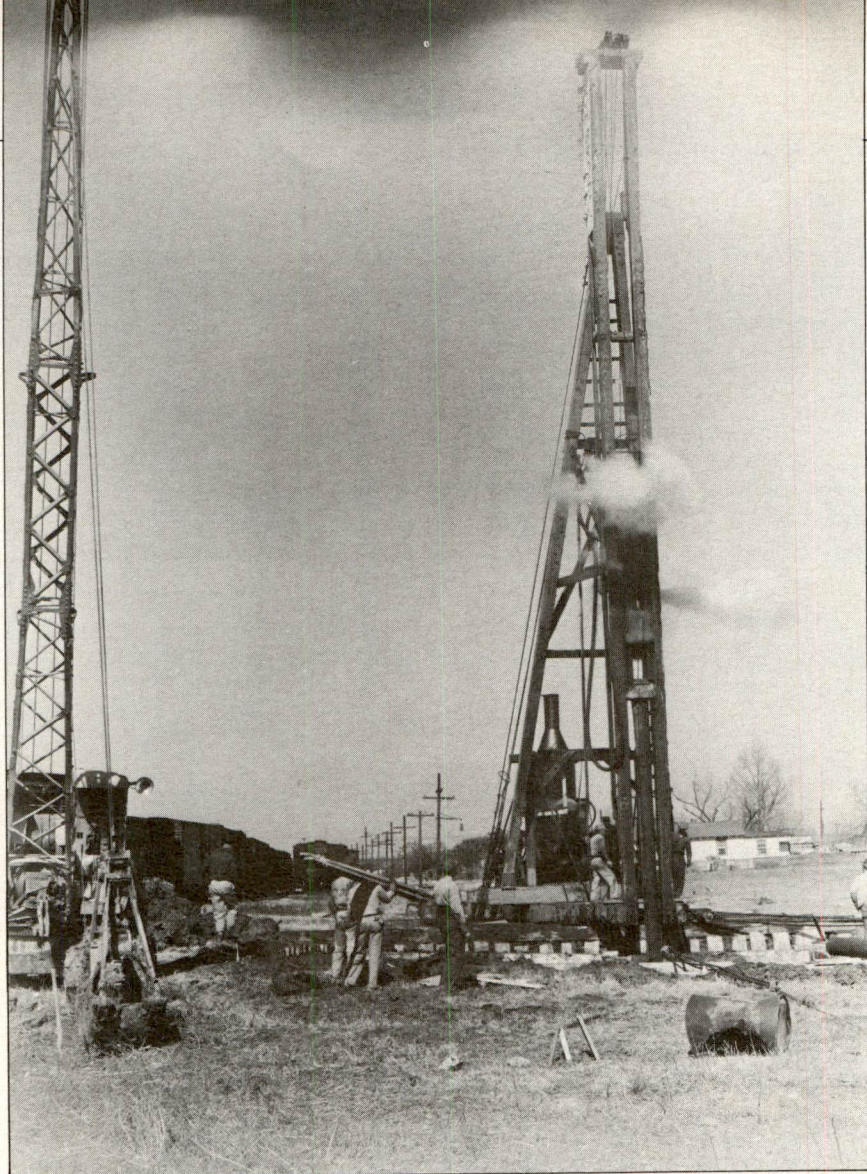
In those early days, the hands-on attitude of Henry Boh was exemplified by his constant refrain, "I never asked a man to do a job I couldn't do myself." This attitude helped the company survive the dark days of the 1930s, grow slowly during World War II, and rapidly afterwards.

And as the opportunities grew—first for war-related facilities and later for utilities, subdivisions, power plant foundations, and overpasses—the company

found that its skills and knowledge were more than adequate to the task. It was also at this time that Henry Boh brought in others who would be key individuals in the growth that followed, principally B. C. Stewart and J. A. Tedford, who headed the company's heavy and underground operations, respectively. It was B.C. Stewart who was so committed to quality work that he once directed his superintendent to "tear it out and do it right" even after the work had been approved by the inspector. He continues as vice chairman and senior consultant after more than 50 years with the company.

Despite its early self-imposed limitations to southeast Louisiana, Boh Bros. progressed rapidly during the 1950s and 1960s as the country rebuilt itself in the aftermath of depression and war. In-

(continued)



For more than half a century, Boh Bros. has been the leading pile driver in Louisiana. Shown here is a 1942 jobsite with steam-driven pile hammer.



Founders Arthur Boh (seated) and Henry Boh.

infrastructure, industrial projects, and then the interstate highway program offered great challenges and opportunities, to which Boh Bros., by virtue of its people and its skills, was qualified to accept.

1960: INCORPORATION

The next major change for the company occurred in 1960, when the partnership was converted into a corporation with key employees, as well as the Boh family, as shareholders. This laid the base for a stable, continuing enterprise, which served well for an organization that in 1991 celebrates the 82nd anniversary of its founding.

Robert H. Boh, Henry's only child, joined the firm in 1955 after obtaining engineering degrees from Tulane University and serving a brief stint on the Tulane civil engineering faculty. He became a vice president of the new corporation in 1960 and was made president and CEO in 1967. He also became chairman in 1986, succeeding his father.

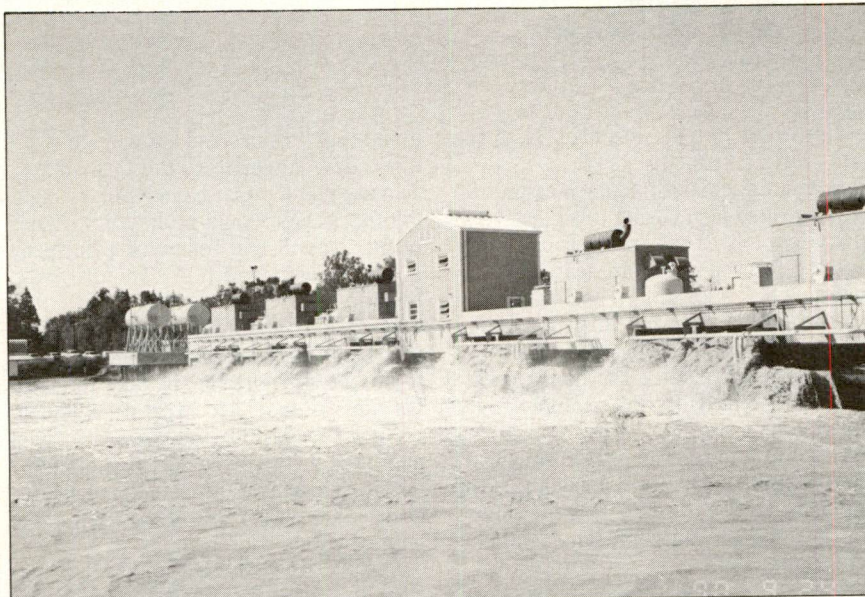
Today Boh Bros. has expanded its horizon to include Texas to the west and Mississippi, Alabama, and Florida to the east, with permanent offices in Baton Rouge and Mobile.

The company contracts several hundred projects per year, some for a few thousand dollars and others of many millions; annual volume is in excess of \$150 million. Its scope of work includes industrial and commercial projects, asphalt and concrete paving, mechanical and industrial piping, marine construction and dock work, bridges, highway-heavy construction, excavation and site development, and railroads.

PRINCIPAL PROJECTS

Principal projects now underway include the \$43 million I-310 interchange west of New Orleans and two \$35 million projects on the west bank of the Mississippi River, one at the toll plaza entrance to the Greater New Orleans Mississippi River Bridge No. 2 and the other on the West Bank Expressway.

The company has also just completed a tunnel under the east-west runway extension at the New Orleans International Airport and is currently working on wharf



The McElroy Pump Station in Baton Rouge, completed in 1991.



Boh is currently building two \$35 million projects on the west bank of the Mississippi River. Shown here is the West Bank Approach to Greater New Orleans Mississippi River Bridge No. 2.

expansions in Texas for the Port of Corpus Christi and the Houston Port Authority.

Boh Bros. early established a position of leadership and innovation in marine construction and has pioneered use of specialized equipment for offshore pile-driving and wharf and dock construction. The company has also performed many major water intake and outfall structure projects, including related cofferdam work.

Like most successful companies, Boh Bros. attributes its success to its people and the accumulated skills and expertise of thousands of man-years of service. Additionally, the company has been able to maintain a strong financial base and to acquire and operate a fleet of modern, well-maintained equipment. The company was also one of the first in the area to fully computerize its payroll and cost accounting systems; it now operates an IBM mainframe and multiple mini-computer work stations and PCs and serves as a regional representative for IBM.

A major measure of the company's stability is the fact that one-third of its more than 1200 employees have been with the firm 10 years or more, with dozens in the 25-year and higher category.

Boh Bros.' philosophy is summed up by Robert Boh, who notes that the key is "sticking to basics" and emphasizing that users of construction services will "always have a place for good people who produce high quality work on time and in a safe manner."

The Boh family is well represented in the business, with Robert H. Boh's sons, Robert S. and Stephen—each holding

degrees in engineering and business—serving as vital members of the team.

Boh Bros. is counting on their youthful energy and creativity, combined with the firm's veteran construction talent, to lead the contractor into a new century of growth and prosperity.

Arthur Boh died in 1973 at age 89 and Henry Boh in 1987 at age 93. Both were involved in their company until their last few years. They were proud of their legacy, these Boh brothers, and the Boh people who follow are working hard to justify the heritage of their founders.

AGC AND BOH: A 45-YEAR PARTNERSHIP

Robert H. Boh served as chairman of the national Heavy Industrial Division in 1985 and chairman of the Collective Bargaining Committee in 1987-1990. In the past 22 years he has served non-stop on a number of committees, including the Executive Committee, and was recently elected to the board of the AGC Education and Research Foundation.

He served as president of the New Orleans Chapter in 1972 and president of the AGC of Louisiana in 1980 and continues to serve on the Louisiana AGC Inc.'s board of directors.

"We get more than our money's worth from AGC," says Boh. "It multiplies dramatically the influence any company has before the legislatures and regulatory bodies, and the instant recognition and respect AGC membership provides is a great marketing tool."

Other Boh employees are active with AGC, serving on national and state committees.

KEYS TO SUCCESS

"My uncle and my father never wrote this down, but this is our corporate philosophy," says Robert H. Boh: "Provide a quality product and deliver good work, performed on time, for the agreed-upon price.

"That's how they functioned," he says of the founders, "and I grew up believing that's the right thing to do.

"If you hire the best people and earn their respect and dedication, you naturally accumulate valuable experience and teamwork. That adds up to greater productivity, which is better for the customer and better for you."



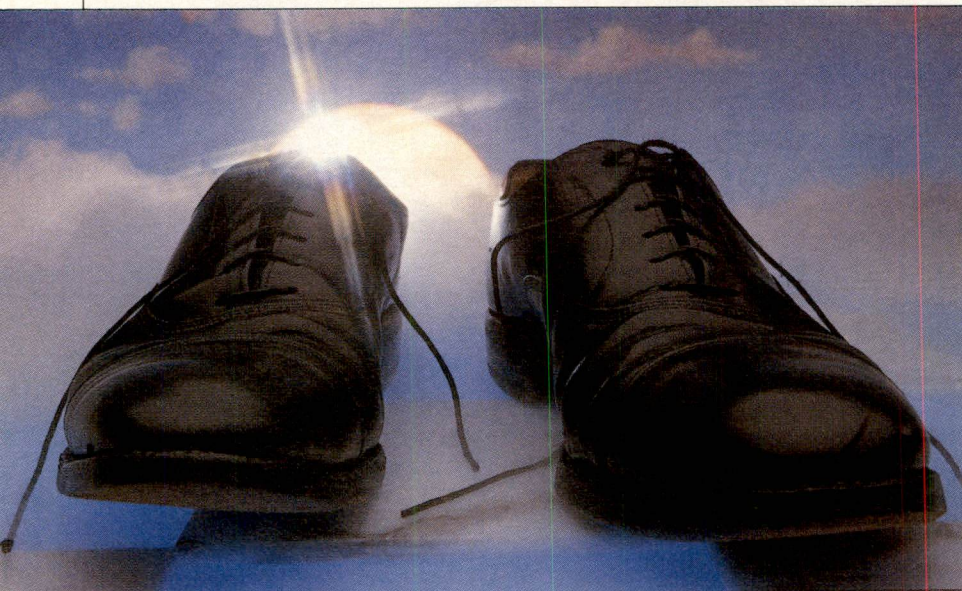
ROBERT H. BOH

Robert H. Boh, 60, the president and chairman of the board of Boh Bros., is the first trained engineer in the family. He received a bachelor's degree and master's degree from Tulane University in New Orleans, where he now serves as chairman of the Board of Administrators.

Mr. Boh plans on passing the leadership of the company on to sons Robert 32, the operating manager, and Stephen, 26, the secretary-treasurer. Both sons hold MBAs and engineering degrees.

OWNERSHIP TRANSFER

AGC CONTRACTORS SPEAK OUT



The photo above is reprinted from the October 1990 cover of *CONSTRUCTOR* ("Who Will Fill These Shoes?"), which was devoted to the issue of management succession/transfer of ownership in the closely held firm.

Beginning with this issue, AGC is running a series of articles to further examine topics of importance to family-owned firms.

Ownership Transfer of the Construction Company, an AGC of America Management Conference, was held in Orlando, Fla., on February 10-12, 1991.

The conference, sponsored annually by the AGC Closely Held Business Committee, was attended by 93 construction company owners, family members, and key employees representing 59 firms in 28 states.

A new feature this year was the use of a short questionnaire to obtain specific information about the participants. The information that was obtained from the anonymous questionnaires is outlined with the hope that it will be helpful to any contractor in the development of a comprehensive business continuity plan.

BASIC GOALS

About 50 percent of the business owners identified their principal goal as passing on the construction business as a going concern to family members.

25 percent were interested in passing the business to a combination of family members and key employees, and 25

percent to key employees only.

More than 60 percent of the business owners wanted to learn how to compensate key employees using the incentive of future business profits.

About 40 percent would consider the possibility of selling the business to outsiders.

There was very little interest in downsizing or splitting into smaller business entities to facilitate sale or transfer.

BASIC COMPANY DATA

About 82 percent of all the businesses represented at the conference were single-operating companies.

Approximately 18 percent were either multiple-operating companies or holding companies with one or more subsidiaries.

65 percent were regular corporations.

35 percent were S corporations, almost all of which had previously been C corporations.

Annual volume ranged from \$1 million to \$50 million. Twenty percent were over \$20 million and 40 percent were under \$5 million.

CHILDREN IN THE BUSINESS

About 55 percent of the business owners had children currently active in the business.

25 percent had young children they hoped to involve eventually; and

20 percent were not going to have children involved.

In many cases not all of the owner's children were active in the business, such as the 39-year-old family member actively running the day-to-day operations with three adult siblings who were not involved with the business. One of the more important topics was the issue of "equity" among active and inactive children.

In about 20 percent of the businesses, all of the owner's children were active, some with even three and

four children involved. The allocation of power among children and the issue of selecting a single "boss" were significant topics of discussion.

PERSONAL NET WORTH

About 80 percent of the business owners had a personal net worth (including the business) of \$3.5 million or less;

17 percent had between \$3.5 million and \$15 million; and

3 percent had in excess of \$15 million. Almost two-thirds of the business owners did not know the approximate amount of their federal estate tax cost, which can have a significant impact on the transition of family business ownership.

BUY-SELL AGREEMENTS

About half of the businesses have existing buy-sell agreements.

80 percent of those are stock redemption agreements.

15 percent are cross purchase agreements; and

5 percent are a combination of the two.

20 percent of those having buy-sell agreements have no method in place to provide funds necessary for the buy-out.

Many business owners were unaware that where a stock redemption method is used and family members own corporate stock, the I.R.S. "attribution" rules could cause substantial unnecessary income tax consequences.

INSURANCE OWNERSHIP

90 percent of the businesses owned life insurance on the life of the principal business owner.

78 percent of the owners owned personal life insurance. There was some evidence that the owners are using third-party ownership of life insurance to minimize federal estate taxes.

12 percent of the owners had irrevocable life insurance trusts.

Other owners reported that relatives, children, or key employees owned life insurance on their lives, some using the corporation to finance the purchase under split dollar arrangements. In general, the results indicated that not many business owners are using the irrevocable life insurance trust, which is an excellent way to insulate assets from estate taxation.

BONDING

Only 10 percent of the participant businesses did no bonded work.

Of those doing bonded work, 5 percent do not personally indemnify; and

approximately 15 percent of the spouses do not indemnify.

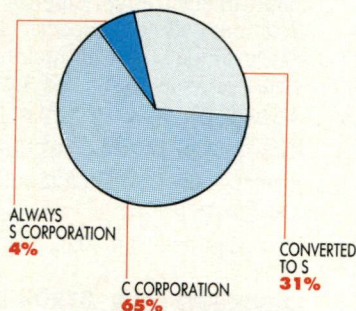
SPECIAL CASES

There were a number of special cases presented by the survey responses: significant involvement of in-laws or stepchildren; sophisticated corporate structures and related family partnerships; an operating company owned equally by six

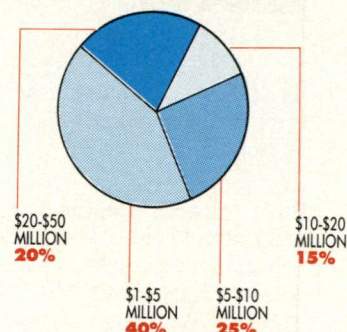
AGC CLOSELY HELD FIRMS

(BASED ON A SURVEY OF CONTRACTORS WHO ATTENDED AGC'S SEMINARS ON OWNERSHIP TRANSFER OF THE CONSTRUCTION COMPANY, FEBRUARY 1991.)

CORPORATE STRUCTURE



ANNUAL VOLUME



40 percent of the businesses did all bonded work.

Fully 65 percent of the owners had not discussed bonding obligations with the next generation of owners.

This is an area that needs consistent review in light of surety requirements and any changes contemplated by the contractor for business continuity and estate planning purposes.

GIFTING TECHNIQUES

Most of the business owners passing the business to family members are not currently using gift techniques.

Only 9 percent had used any part of the Unified Credit of \$600,000 or filed a gift tax return.

About 16 percent had a systematic gift program in place using the \$10,000 annual exclusion. One such program had been in effect for 20 years and a second for 10 years.

The potential value of using creative gift techniques was emphasized at the conference, since it would appear that many opportunities are being missed to minimize federal transfer taxes while passing the business to family members.

children; and an operating company owned by three unrelated families, all of whom have children in the business.

SUMMARY

The questionnaire results indicate that many contractors are not far along in their business continuity planning. We hope that participation in the conference enabled the participants to move toward the development of a comprehensive plan to implement their personal goals in this complex area. Many opportunities are apparently being lost by not taking full advantage of present tax law.

—By Doug McPherson and Jeff Radowich.

McPherson is president of McPherson Enterprises Ltd., Towson, Md., a financial consultant to construction companies; Radowich is a partner in the Baltimore office of the law firm Ober, Kaler, Grimes and Shriver. He specializes in continuity planning. McPherson and Radowich were two of the speakers at the Ownership Transfer conference and authored the questionnaire discussed in this article.

AGC'S 1991 EXECUTIVE COMMITTEE

Each of the following Executive Committee members also serves on the Finance Committee.



MARVIN M. BLACK

Chairman of the Board
Marvin M. Black Co.,
Atlanta, Georgia

President, AGC of
America, 1991;
Chairman of the

AGC Building Division—1986 (Vice
Chairman—1985)

As AGC's national president, Mr. Black
is an ex-officio member of all AGC com-
mittees.

Has served AGC as chairman of the
Rules, Special Contracting Methods,
Subcontractor Relations, and American
Subcontractors Association-Associated
Specialty Contractors-AGC committees.

Also as a committee member on AGC's
Open Shop, Construction Marketing, Na-
tional Association of Women in
Construction-AGC, Chapter Certifica-
tion, American Concrete Institute-AGC,
Public Relations, Membership Adminis-
trative, Contract Documents Coordinat-
ing, Special Preference Procurement,
Membership Development, Ethics, and
Corps of Engineers committees.

President of the Georgia Branch in 1973.

Primary construction market—Building
construction.

Firm has been an AGC member since
1964.



ROBINS H. JACKSON

Chairman of the Board
Cedar Valley Corp.,
Waterloo, Iowa

Senior Vice Presi-
dent, AGC of
America—1991; Chairman of the
AGC Highway Division—1987 (Vice
Chairman—1986)

As AGC's national senior vice president,
Mr. Jackson is an ex-officio member of all
AGC committees.

Has served AGC as chairman of the Con-

crete Pavement, Water & Wastewater
Equipment Manufacturers Association-
AGC, and Mississippi Valley Region of
the American Association of State
Highway and Transportation Officials-
American Road and Transportation
Builders Association-AGC committees.

Also as a committee member on AGC's
Chapter Certification, Concrete Industry
Relations, Contract Documents Coordinat-
ing, Construction Education, Ethics,
Infrastructure Coordinating, Member-
ship Administrative, Open Shop, Public
Relations, Rules, Special Preference
Procurement, Subcontractor Relations,
Transportation Policy, and American
Consulting Engineers Council-AGC committees.

President of the AGC of Iowa in 1967.

Primary construction market—Highway
construction.

Firm has been an AGC member since
1957.



BYRON L. FARRELL

President
Helmkamp Construction
Co.,
Wood River, Illinois

Vice President,
AGC of America—
1991; Chairman of the AGC
Municipal-Utilities Division—1987
(Vice Chairman—1986)

As AGC's national vice president, Mr.
Farrell is an ex-officio member of all AGC
committees.

Has served AGC as chairman of the In-
frastructure Coordinating and Minority
Business Advisory committees, and as
co-chairman of the American Consulting
Engineers Council-AGC Joint Com-
mittee.

Also as a committee member on AGC's
Open Shop, Municipal-Utilities Coordi-
nating, Equal Opportunity, Hazardous
Waste, National Association of Women
in Construction-AGC, Special Preference
Procurement, Public Relations, Contract
Documents, Chapter Certification, Mem-
bership Administrative, Legislative,
Ethics, and Subcontractor Relations
committees.

President of the Southern Illinois
Builders Association in 1979 and 1980.

Primary construction markets—

Municipal-Utilities, Heavy, Building, and
Highway construction.

Firm has been an AGC member since
1957.



LAWRENCE J. MCGOUGH

President
McGough Construction Co.
Inc.,
St. Paul, Minnesota

Treasurer, AGC of
America—1991; Chairman of the
AGC Building Division—1984 (Vice
Chairman—1983)

As AGC's national treasurer, Mr.
McGough is an ex-officio member of all
AGC committees.

Has served AGC as chairman of the
Housing & Urban Development, NAHB-
AGC Joint, Special Contracting Methods,
and AIA-AGC Coordinating committees.

Also as a committee member on AGC's
Turnkey, Surety Association of America,
Contract Documents, Public Relations,
Ethics, Rules, Special Preference Pro-
curement, AIA Documents Review,
Federal Building Procedures, AIA-AGC
Liaison, and Project Delivery Systems
committees.

President of the AGC of Minnesota in
1983.

Primary construction market—Building
construction.

Firm has been an AGC member since
1932.



ROBERT F. LATHLAEN

President
W.J. Barney Corporation,
New York, New York

Chairman of the
AGC Building Divi-
sion—1991 (Vice Chairman—1990)

Has served AGC as chairman of the Con-
tract Documents, Construction Manage-
ment, Special Contracting Methods, and
American Institute of Architects-AGC
Documents Group committees.

Also as a committee member on AGC's Building Specifications, Equal Opportunity, Federal Building Procedures, Minority Business Advisory, Joint Engineering Societies, Membership Administrative, Project Delivery Systems, Public Relations, AIA-AGC Liaison, AIA-AGC Coordinating, and ACEC-AGC Joint committees.

President of the New York State Building Chapter, AGC in 1975 and 1976.

Primary construction market—Building construction.

Firm has been an AGC member since 1934.

J. HOWARD MOCK



Chairman of the Board
Jaynes Corp.,
Albuquerque, New Mexico

Vice Chairman of
the AGC Building
Division—1991

Serves AGC as western regional deputy chairman of the Collective Bargaining Committee.

Has served AGC as chairman of the Construction Marketing Committee.

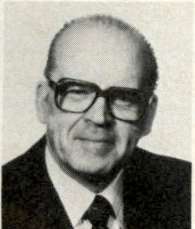
Also as a committee member on AGC's Closely Held Business, Collective Bargaining, Basic Trades, Building Codes & Permits, Project Delivery Systems, and Public Relations committees.

President of the New Mexico Building Branch in 1986.

Primary construction market—Building construction.

Firm has been an AGC member since 1969.

ROBERT S. SUNDT



President
Sundt Corp.,
Tucson, Arizona

Chairman of the
AGC Heavy-Industrial Division—1991
(Vice Chairman—1990)

Has served AGC as chairman of the Corps of Engineers Committee, Wetlands Task Force, regional chairman of the Collective Bargaining Committee, and regional coordinator of the Municipal-

Utilities Coordinating Committee.

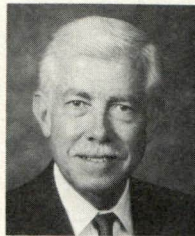
Also as a committee member on AGC's Collective Bargaining, Construction Marketing, Infrastructure Coordinating, International Construction, Manpower & Training, Open Shop, Special Preference Procurement, Water Resources, Membership Administrative, Public Relations, Finance, Ethics, Rules, Real Estate Privatization Task Force, and American Consulting Engineers Council-AGC committees.

President of the AGC Arizona Building Chapter in 1970.

Primary construction markets—Heavy-Industrial, Building, and Highway construction.

Firm has been an AGC member since 1934.

HAROLD KVAAS



President
Kvaas Construction Co.
Inc.,
San Diego, California

Vice Chairman of
the AGC Heavy-Industrial Division—1991

Has served AGC as chairman of the Naval Facilities Engineering Command Committee.

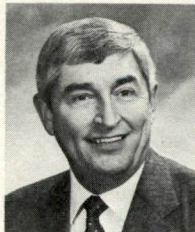
Also as a committee member on AGC's Contract Forms & Specifications and Building Specifications committees.

President of the San Diego Chapter in 1971.

Primary construction markets—Heavy-Industrial and Building construction.

Firm has been an AGC member since 1949.

ROBERT J. DESJARDINS



Executive Vice President
and Treasurer
Gianbro Corporation,
Pittsfield, Maine

Chairman of the
AGC Highway Division—1991 (Vice
Chairman—1990)

Has served AGC as co-chairman of the American Association of State Highway and Transportation Officials-American Road and Transportation Builders

Association-AGC and the NASHTO region of the AASHTO-ARTBA-AGC Joint committees.

Also as a committee member on AGC's Highway Bridge, Industrial/Process Contractors, Open Shop, Special Preference Procurement, Transportation Policy, Membership Administrative, Public Relations, and American Consulting Engineers Council-AGC committees.

President of the AGC of Maine Inc. in 1991.

Primary construction markets—Highway and Heavy construction.

Firm has been an AGC member since 1951.

PETER K. W. WERT



Vice President
Haskell
Lemon Construction Co.,
Oklahoma City,
Oklahoma

Vice Chairman of
the AGC Highway Division—1991

Has served AGC as chairman of the Asphalt Pavement Committee.

Also as a committee member on the WASHTO region of the American Association of State Highway and Transportation Officials-American Road and Transportation Builders Association-AGC and Transportation Policy committees.

President of the Association of Oklahoma General Contractors in 1978.

Primary construction markets—Highway and Municipal-Utilities construction.

Firm has been an AGC member since 1950.

GENE SHULL



President and Owner
A.E. Shull and Co.,
Tyler, Texas

Chairman of the
AGC Municipal-Utilities Division—
1991 (Vice Chairman—1990)

Has served AGC as chairman of the Municipal-Utilities Coordinating Committee.

Also as a committee member on AGC's Closely Held Business, Infrastructure Coordinating, Membership Development, Special Preference Procurement,

(continued)

EXECUTIVE COMMITTEE (continued)

Membership Administrative, Open Shop, Public Relations, ACEC-AGC Joint, and American Water Works Association-AGC committees.

President of the AGC of Texas—Highway, Heavy, Utilities and Industrial Branch in 1990.

Primary construction market—Municipal-Utilities construction.

Firm has been an AGC member since 1975.

ROBERT A. MARTIN



President
F.H. Martin
Construction Co.,
St. Clair Shores, Michigan

Vice Chairman of the AGC Municipal-Utilities Division—1991

Has served AGC as chairman of the Joint Engineering Societies Committee, Michigan State Chairman of AGC's Legislative Network, and as chairman of the task force for review of ASCE's "Quality in the Constructed Project."

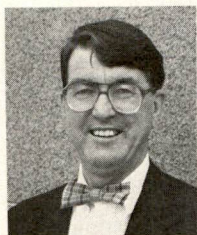
Also as a committee member on AGC's Industry Advancement Program, Contract Documents, Collective Bargaining, Municipal-Utilities Coordinating, and American Consulting Engineers Council-AGC Joint committees.

President of the Detroit Chapter in 1974.

Primary construction markets—Building and Municipal-Utilities construction.

Firm has been an AGC member since 1920.

FRANCIS W. MADIGAN JR.



President
F.W. Madigan Co. Inc.,
Worcester, Massachusetts

Chairman of the AGC Building Division—1987 (Vice Chairman—1986)

Serves AGC as chairman of the Collective Bargaining Committee and as a director on AGC's Education and Research Foundation Board of Directors.

Has served AGC as chairman of the Research and American Institute of Architects Documents Review committees.

Also as a committee member on AGC's

Chapter Certification, Closely Held Business, Construction by Contract, Construction Education, Contract Documents, Ethics, Finance, Goals, Long Range Planning, Membership Administrative, Membership Development, Rules, Safety and Health, Special Contracting Methods, Subcontractor Relations, Surety Bonding, Basic Trades, Project Delivery Systems, AIA-AGC Coordinating, CCA-AGC Joint, and Surety Association of America-AGC Joint committees.

President of the AGC of Massachusetts Inc. in 1971 and 1972.

Primary construction market—Building construction.

Firm has been an AGC member since 1953.

JAMES W. SUPICA SR.



President
United Construction Co.
Inc.,
Lenexa, Kansas

President, AGC of America—1988, Chairman of the AGC Highway Division—1985 (Vice Chairman—1984)

Serves AGC as chairman of the Legislative Action, Political Action, and Defense Construction Policy committees.

Has served AGC as chairman of the Finance, Pension, Infrastructure Coordinating, Crime Prevention, Mississippi Valley Region of the American Association of State Highway and Transportation Officials-American Road and Transportation Builders Association-AGC Joint, and Canadian Construction Association-AGC Joint committees.

Also as a committee member on AGC's Open Shop, Transportation Policy, Asphalt Pavement, Ethics, Membership Administrative, Special Preference Procurement, Finance, Rules, Corps of Engineers, Defense Construction Policy, and Minority Business committees.

President of the AGC of Missouri in 1978 and of the Kansas Contractors Association Inc. in 1984.

Primary construction market—Highway and Heavy construction.

Firm has been an AGC member since 1971.

TIM WORD



Managing Partner
Dean Word Co.,
New Braunfels, Texas

Chairman of the AGC Highway Division—1988

(Vice Chairman—1987)

Serves AGC as chairman of the Open Shop Committee.

Has served AGC as chairman of the Asphalt Pavement and co-chairman of the American Association of State Highway and Transportation Officials-American Road and Transportation Builders Association-AGC Joint and WASHTO region of the AASHTO-ARTBA-AGC Joint committees.

Also as a committee member on AGC's Transportation Policy, Ethics, Infrastructure Coordinating, Membership Administrative, Public Relations, Rules, Special Preference Procurement, ACEC-AGC Joint, and Water Resources committees.

President of the AGC of Texas-Highway, Heavy, Utilities and Industrial Branch in 1979.

Primary construction market—Highway construction.

Firm has been an AGC member since 1932.

PAUL EMERICK



Chairman Emeritus
Emerick Construction Co.,
Portland, Oregon

President, AGC of America—1989;
Chairman of the

Building Division—1983 (Vice Chairman—1982)

Has served AGC as chairman of the Manpower & Training, Contract Documents Coordinating, Finance, and Pension committees.

Also as a committee member on AGC's American Institute of Architects Liaison, Building Specifications, Construction Education, Labor, Collective Bargaining, Equal Opportunity, American Institute of Architects-AGC Documents Review, Public Relations, Ethics, Legislative Action, Rules, Subcontractor Relations, Infrastructure Coordinating, Chapter Certification, Federal Committee on Ap-

prenticeship, and Canadian Construction Association-AGC committees.

President of the Oregon-Columbia Chapter in 1972.

Primary construction market—Building construction.

Firm has been an AGC member since 1956.



KIRK FORDICE

President
Fordice Construction Co.,
Vicksburg, Mississippi

President, AGC of America—1990; Chairman of the AGC Heavy-Industrial Division—1975 (Vice Chairman—1974)

Serves AGC as chairman of the Pension and Finance committees.

Has served AGC as chairman of the Corps of Engineers Task Unit of the Contract Forms and Specifications, Corps of Engineers, Safety and Health, Canadian Construction Association-AGC Joint and AIA/AGC Liaison committees.

Also as a committee member on AGC's Construction Markets, Construction Education, American Society for Engineering Education-AGC, Goals and Objectives, Rules, Ethics, Open Shop, Collective Bargaining, Construction by Contract, Legislative, Hazardous Waste, AGC PAC, Chapter Certification, and Contract Documents Coordinating committees.

President of the Mississippi Valley Flood Control Branch in 1970.

Primary construction market—Heavy-Industrial construction.

Firm has been an AGC member since 1949.

SAMUEL P. HUNTER



President
T.A. Loving Co.,
Goldsboro, North Carolina

Chairman of the AGC Municipal-Utilities Division—1990 (Vice Chairman—1989)

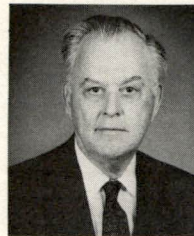
Has served AGC as chairman of the American Water Works Association-AGC Joint Committee.

Also as a committee member on AGC's Membership Development, Municipal-Utilities Coordinating, Water Resources, Membership Administrative, Public Relations, Special Preference Procurement, Ethics, Rules, Joint Engineering Societies, ACEC-AGC Joint, APWA-AGC Joint, and WWEMA-ACEC-AGC Joint committees.

President of Carolinas AGC Inc. in 1987.

Primary construction markets—Municipal-Utilities, Building, Heavy, Bridges, and Marine construction.

Firm has been an AGC member since 1933.



T.R. BENNING JR.

Chairman of the Board
Benning Construction Co.,
Atlanta, Georgia

Has served AGC as chairman of the Construction Education Committee.

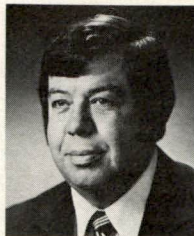
Also as a committee member on the AIA-AGC Documents Review, Manpower & Training, and Rules committees and the AGC Education and Research Foundation Board of Directors.

President of the Georgia Branch in 1971.

Primary construction market—Building construction.

Firm has been an AGC member since 1954.

TERRY DEENY



President
Deeny Construction Co.
Inc.,
Seattle, Washington

Chairman of the AGC Municipal-Utilities Division—1986 (Vice Chairman—1985)

Serves AGC as chairman of the Ethics Committee.

Has served AGC as chairman of the Municipal-Utilities Coordinating and Membership Administrative committees.

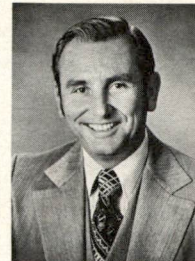
Also as a committee member on the Collective Bargaining, Basic Trades, Chapter Certification, Contract Documents, Public Relations, Special Preference Procurement, Subcontractor Relations, Infrastructure Coordinating, Legislative,

and Rules committees and the AGC Education and Research Foundation Board of Directors.

President of the Seattle Chapter in 1979.

Primary construction markets—Municipal-Utilities construction.

Firm has been an AGC member since 1954.



DAVID A. MCCOSKER

President
Independent Construction Co.,
Concord, California

Chairman of the AGC Highway Division—1986 (Vice Chairman—1985)

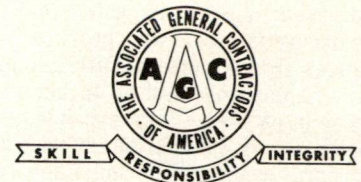
Has served AGC as chairman of the Contract Construction committee.

Also as a committee member on the American Public Works Association-AGC Joint, Hazardous Waste, WASHTO region of the American Association of State Highway and Transportation Officials-American Road and Transportation Builders Association-AGC Joint, Contract Documents, Membership Administrative, Special Preference Procurement, Chapter Certification, Public Relations, Ethics, Rules, Infrastructure Coordinating, and Transportation Policy committees.

President of AGC of California Inc. in 1980.

Primary construction markets—Highway and Heavy construction.

Firm has been an AGC member since 1936.



THE 102ND CONGRESS

The 102nd Congress is off and running. The rapid end of the Middle East War has meant that members of the House and Senate are turning once again to the domestic legislative agenda. It promises to be a full agenda with many opportunities for controversy and many challenges and opportunities.

Civil Rights Act of 1991. Introduced in the House as H.R. 1, the bill contains no provisions addressing business and industry concerns about unlimited punitive and compensatory damages nor does it address the definition of "business necessity" in such a way as to eliminate the quota-forcing aspects of the bill.

Sen. Alan K. Simpson (R.-Wyo.) introduced S. 478, which is a narrowly drafted civil rights bill allowing some damages for deliberate harassment, rejecting jury trials, and attempting to fix the business necessity definition to make it more responsive to business concerns.

The Administration's bill was introduced in March, also addressing "business necessity" and providing for limited monetary awards.

The bill is on a fast track in the House.

Surface Transportation Assistance Act reauthorization. The Administration has unveiled its bill and House and Senate public works staff are beginning discussions and some early drafting work on reauthorization bills. Whether to enact a multi-year bill, changes in programs, changes in formulas, and transfer of funds between different modes will all be addressed. It is not expected that the Administration bill will propose any changes to the current DBE requirement. A challenge will be to keep the House in particular from expanding the requirement or splitting the set-aside into a minority requirement and a separate women's requirement. This legislation presents the industry with the opportunity to increase funding levels for federal transportation programs.

Water Quality Act reauthorization. In addition to providing the industry with an

opportunity to obtain additional funding for the State Revolving Loan program, this legislation presents an opportunity to address the Section 404 and wetlands issues. With Small Business Committee Chairman John LaFalce already holding hearings on the impact of the current wetlands regulations on small business, it increases the opportunity for successful efforts in obtaining relief.

Striker replacement. This is the lead labor-management issue now being pursued by labor. The House and Senate bills have been introduced (H.R. 5/S. 55), and business is currently working to slow down the number of members signing on as co-sponsors. This legislation would prohibit employers from hiring permanent replacements during an economic strike. It also would greatly increase the ability of labor to organize non-union firms through the practice of "salting" the workforce.

Construction Safety and Health OSHA reform. This issue has reappeared for the third Congress. Debate continues to focus on the various concerns that have been addressed over the last couple of years. The challenge will be to keep additional paperwork requirements and other burdensome provisions such as the requirement for construction safety specialists out of any legislation that may be passed. If such legislation does advance, it provides an opportunity for the industry to enact provisions on employee accountability and drug testing.

Legislation has also been reintroduced to establish a new class of criminal penalties for safety and health violations.

Competition in contracting. AGC is again attempting to educate members of Congress and staff on the preferred procurement method for the construction industry on work financed by tax dollars—competitive sealed bid. This effort is underway to counter the increasing use of competitive negotiation by various agencies.

Indemnification for construction contrac-

tors performing Superfund clean up work. Following on the success of the last Congress to increase the availability of surety bond producers on Superfund work, AGC continues to educate members on the constraints that the lack of adequate indemnification for contractors places on the ability to develop a strong, competitive market for this work. AGC will look for an opportunity to advance an indemnification proposal.

Pension simplification. Legislation to achieve this goal is being introduced again in this Congress. Areas to be addressed include: minimum participation requirements; definition of highly compensated employee; and definition of leased employee.

Family leave bill. This legislation, which passed last year but was successfully vetoed by President Bush, has again been introduced. Several other proposals are expected to appear, including a major initiative by Sen. Orrin G. Hatch (R.-Utah). The main point of contention in the various bills remains that the implementation of provisions is *mandated*, allowing no flexibility in the development of benefits and limiting the choices an employer will have in allocating limited resources for benefits.

Federal product liability reform (workers' compensation). In the 101st Congress a product liability reform bill was introduced and it is expected that a similar measure will be introduced this Congress. The legislation, as introduced last year, would have had a devastating effect on the nation's already weakened workers' compensation system. The legislation would have reduced product liability claims by the amount of workers' compensation a claimant received and would have effectively eliminated the rights of subrogation by the employee or its insurance carrier against the manufacturers. The challenge to the industry is to ensure that product liability reform does not further weaken the workers' compensation system.

CONSTRUCTOR LEGAL MATTERS

COURT UPHOLDS TERMS OF PRIME CONTRACT

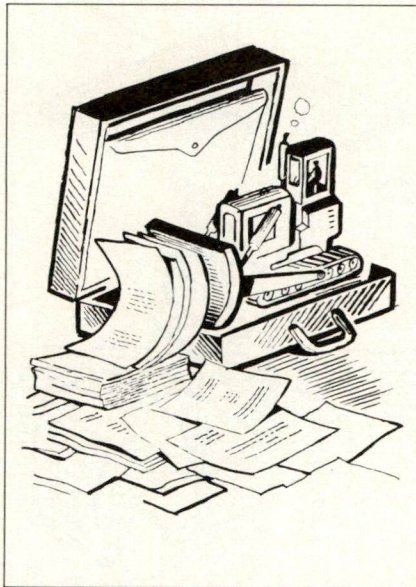
An electrical subcontractor was bound by the dispute resolution procedure contained in the prime contract. Until that procedure was exhausted, the subcontractor had no right to institute alternate proceedings against the general contractor, so held the United States Court of Appeals.

The general contractor (McGaughan) had a contract with the Washington Metropolitan Area Transit Authority (WMATA) to perform finishing work at a station. McGaughan issued subcontracts for the electrical work (Seal) and the mechanical work (Kirlin).

The general provisions of the two subcontracts were identical and stated that if there were changes issued by the owner, the subcontractor would be bound by the decision of the owner, as the contractor was bound by that decision. But if the change was ordered by the contractor and was "independent of owner or contract documents," if the subcontractor performed the work, it was entitled to an equitable adjustment without regard to the decision of the owner.

Further, if there were disputes between the contractor and subcontractor, as the result of any action or inaction of the owner or involving the prime contract documents, the subcontractor was again bound to the contractor as the contractor was bound to the owner. On the other hand, if the controversy did not involve the owner or the prime contract documents, the resolution procedure in the prime contract did not apply.

In this case, a dispute arose with regard to the performance and payment for fire line bonding. Both the electrical and mechanical subcontractors claimed that the work was not within their subcontracts. The general contractor forwarded the subcontractors' positions to the WMATA, which replied that the work was required by the contract documents, and referred to a section of the electrical and mechanical specifications. The WMATA directed that the work be performed at no additional cost.



The electrical subcontractor agreed to perform the work under protest, whereas the mechanical subcontractor refused to undertake the work.

After the work was performed, Seal demanded payment from McGaughan, who refused. Seal then filed suit for breach of contract. McGaughan said that Seal's suit was improper since it was obligated to follow the resolution procedure specified in the prime contract, which required McGaughan to submit the claim to the WMATA for written decision. That decision would be reviewable by the board of directors of the WMATA or the Army Corps of Engineers Board of Contract Appeals. Those decisions would be subject to limited judicial review. The lower court disagreed with McGaughan and permitted Seal's suit to go forward, and dismissed McGaughan's claim against Kirlin. A decision was rendered in favor of Seal, and an appeal followed.

After reviewing both the prime contract and the subcontract the court stated: "In effect, the changes and disputes provisions transform potential breach of contract claims into claims under the contract. By agreeing to these provisions, McGaughan has agreed to rely on administrative procedures to re-

solve disputes over work within the general scope of the contract, subject to limited judicial review."

The question was whether the directives to perform the fire line bonding work were dependent, in whole or in part, on the scope of work in the prime contract, which was incorporated into the subcontracts. If the answer was yes, the contractual dispute resolution procedures would govern, and the right of a separate action against the general contractor was precluded.

The court determined that Seal failed to establish that the administrative remedies it agreed to follow were inadequate or unavailable. In like fashion, Kirlin was bound by the same procedure. The court concluded that the lower court was in error in permitting Seal to file its claim directly against McGaughan and in dismissing McGaughan's third-party complaint against Kirlin.

The court directed "to stay the proceedings pending the final outcome of the dispute settlement procedures outlined in section 6 of WMATA's General Provisions. If McGaughan prevails in the administrative appeal and WMATA's order to perform the bonding is considered a 'change order,' then WMATA will pay McGaughan for the bonding. McGaughan must then reimburse Seal pursuant to ... the subcontract. If McGaughan loses the appeal and the bonding is considered part of the original contract, then the court must determine, this time with the aid of the board's decision, where bonding is required in the contract documents and which subcontractor is responsible for it or whether both are jointly responsible."

Seal & Co., Inc. vs. A.S. McGaughan Co., Inc., 1907 F.2d 450 (4th Cir. 1990).

Commentary: *It is important to consider whether a subcontractor should be bound by an owner's decision in the same fashion as the general contractor is when decisions of the owner relate to the subcontractor's work. If so, care must be given in drafting contract clauses that accomplish this result.*

—By Michael S. Simon, of Hill, Wallack & Masanoff, 210 Carnegie Center, Princeton, N.J. 08543

CONSTRUCTOR CONSTRUCTION EDUCATION

IMPROVING PRODUCTIVITY: THE EXECUTIVE'S ROLE

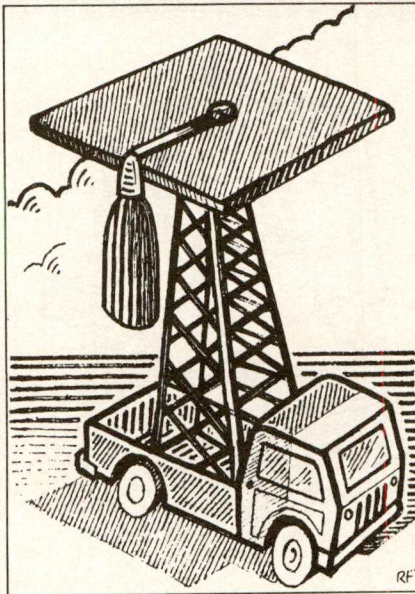
Construction executives must provide the initiative, leadership, and enthusiasm for productivity improvement efforts. Without this support, the best attempts are doomed to failure.

Incentives. Incentives to improve productivity take many forms. When possible, consider promoting top performers to a more responsible position. Such promotions need not always be vertical. A superintendent who performed well can be promoted to larger, more complex jobs. Bonuses are another form of incentive and are commonly paid by many construction firms. They should be based upon some measure of performance, however. Bonuses paid in equal shares or percentages to all project managers can act as a disincentive to the top performers. Company stock options are another incentive that tends to improve performance. As profits improve as a result of higher productivity, the value of the stock, or any dividends, will also tend to increase.

Other incentives include company recognition programs and perks. Banquets, award ceremonies, certificates of achievement, jackets, calculators, and numerous other items can be given to those who meet or beat production goals, contribute great ideas or suggestions, or perform exceptionally well in a given area. Perks include expense-paid trips to seminars, conventions, a hunting lodge, or even the gift of a company vehicle.

Education and training. Construction executives should pay special attention to the positive impact education and training have on employee productivity improvement. Sending key personnel to education and training programs pays double dividends: the employee gains useful knowledge and receives a clear message that the company is concerned about skills improvement. Local AGC-sponsored seminars and workshops are a good bet, and many subjects can be taught in-house.

Also encourage employees to take continuing education courses such as AGC's Supervisory Training Program



(STP) or business-related evening or weekend classes at a local college. Consider some form of financial assistance or reward for successful completion. A company-paid subscription to a professional journal or industry publication is another form of an education-related incentive.

Motivational policies. Here are some motivational policies discussed in "Productivity Improvement-An Overview," AGC publication No. 15:

- Taped executive introductions for newly hired employees.
- Job and/or company newsletters that inform of job progress and praise personal achievement.
- Company social functions that include awards and recognition.
- Providing crew self-analysis equipment.
- Posting or publication of production goals.
- Incentive bonus systems based upon project, individual crew, or company profitability.
- New idea reward programs.
- Company-wide profit sharing programs.

Miscellaneous policies. Construction executives can convey their interest in productivity improvement to employees in

many other ways. Some are directly apparent; some are not; each carries the message that the firm cares about how its employees perform on the job:

- Operations manual: Establish standard operating procedures for general field operations—how the firm wants things done.
- Company manual: Maintain an up-to-date company manual that includes all company policies.
- Vacation, sick leave, holidays: Have a written policy for everyone.
- Ethics: A statement or policy concerning company ethical standards has a positive impact on employees.
- Alcohol and drugs: A written policy that is enforced indicates top management's concern for a safe, healthy, productive workforce.
- Safety: A safe worksite is essential to productivity improvement.
- Employee reviews: An impartial performance review program can improve employee performance.
- Public and media relations: Company executives should try to cultivate a positive view of the firm among the public and local media.

All construction firms are different, and the executive programs and policies examined in this column are simply some examples that may or may not be applicable to your company. However, the application of even a few of these ideas should lead to improvement in productivity. More information on productivity improvement programs will soon be available in booklet form as AGC publication No. 20.

Other factors of equal importance to the executive's role in improving the productivity of the office-field team have been identified by AGC's Construction Education Committee. They are Production Leadership and Motivation (No. 16), The Importance of Planning (No. 17), production measurement and analysis, office support of field operations, and communicating productive spirit.

A complete series of publications on this topic is under development.

—By E. W. Jones, AGC's Construction Education

CONSTRUCTOR NEWSMAKERS

Raymond F. Pieper, president of J.S. Alberici Construction Co. Inc. (AGC) in St. Louis, Mo., retired recently after 42 years of service to the company. He is a past president of AGC of St. Louis and is currently a national AGC director. **Edward L. Calcaterra**, executive vice president-operations and a 36-year veteran of Alberici, will assume Pieper's position. Calcaterra is also a past president of AGC of St. Louis; a former chairman of local AGC committees on labor, apprenticeship, and health, welfare, and pension; and has served on numerous national AGC committees.

Jack McKay has been named crane sales manager (West) for Link-Belt Construction Equipment Company in Lexington, Ky. He will be in charge of the company's hydraulic and lattice boom crane lines in the western United States and the Canadian provinces of British Columbia, Alberta, Saskatchewan, and Manitoba. McKay was previously associated with Cloverdale Equipment Company (AGC National Associate) in Oak Park, Mich.

The Manville Engineered Products Group has reorganized its mechanical insulation, air handling, and OEM sales organization into two units—mechanical insulation systems and OEM businesses. **Phyllis M. Sharp** has been appointed national sales manager of mechanical insulation systems, and **Bill Riaksi** has been appointed national sales manager of the OEM businesses division.

J.R. Filanc Construction Co., formerly Weardco Construction Corp. (AGC) in Oceanside, Calif., announced that **Jack Filanc** assumed the duties of chairman of the board and **Mark Filanc** has been named executive vice president. Jack Filanc is a member of the board of directors of AGC's San Diego Chapter.

Duggan & Marcon Inc. (AGC National Associate), in Fogelsville, Pa., recently won the grand honor award in the 1990 Safety Achievement Competition conducted by the Philadelphia Builders'

Chapter. The program recognizes outstanding safety efforts of contractors in commercial, industrial, and institutional building construction in the Philadelphia five-county area. **L. Charles Marcon**, the firm's president, accepted the award. **James J. Clearkin**, president of James J. Clearkin Inc. (AGC) in Philadelphia, has been reelected chapter president.

Thomas J. Elgin has joined Essex Builders Company Inc. (AGC) in Framingham, Mass., as senior project planner. Elgin, who brings more than 25 years of design construction experience to the firm, will be responsible for sales and promotion of Essex's pre-engineered metal building division.

Ebasco Constructors Inc. (AGC), a subsidiary of Ebasco Services Incorporated, has received the 1990 Outstanding Contractor Award from the U.S. Army Corps of Engineers, Omaha District (Corps). Ebasco was honored for outstanding performance on the interim action of Basin F hazardous waste cleanup at the Rocky Mountain Arsenal in Colorado. At the 93-acre site, Ebasco successfully stabilized and contained toxic materials generated from the production of chemical weapons.

The construction and agricultural division of Spectra-Physics (AGC National Associate) in Dayton, Ohio, recently received a Presidential Award for excellence in exporting. **Ted L. Teach**, vice president and division manager, accepted the award from Gordon B. Thomas on behalf of President George Bush and Secretary of Commerce Robert A. Mosbacher. Spectra-Physics' worldwide expansion program led to the establishment of 84 independent distributors in 37 foreign countries.

David G. Jensen has joined Alexander & Alexander Inc.'s (AGC National Associate) office in Phoenix, Ariz., as surety manager. As a member of A&A's construction team, Jensen will handle all contractor-related bonding services.

Daniel F. Knise, chairman of Johnson & Higgins (AGC National Associate), has been elected senior vice president in the firm's Washington, D.C., office. Knise joined the firm in 1985 and was previously employed as director of human resources development and risk management for S. J. Groves and Sons (AGC). A graduate of Cornell University, Knise was also director of collective bargaining for National AGC. With Knise's appointment, **Dave Nichols**, of the firm's Richmond, Va. office, assumes the deputy chairmanship.

IN MEMORIAM

Joseph P. Silvestri, 82, president in 1961 of the Northern and Central California Chapter of AGC, died recently in Burlingame, Calif. Silvestri chaired AGC's Labor Committee in the late 1950s and also directed an AGC committee that laid the foundation for standard specifications programs for highway construction throughout the United States. A founding member of the Beavers, Silvestri was a principal in the firm of Charles L. Harney Inc. **James H. Ryan Sr.**, president of the Associated Contractors of New Mexico from 1959 to 1961, died Dec. 7. Ryan was an honorary life member of the association and a long-time highway contractor. **Richard Walberg**, 89, chairman in 1939 of AGC's Central California Chapter, died Feb. 3 in San Francisco. A retired president and chairman of Swinerton & Walberg (AGC), he oversaw the firm's expansion into industrial construction and built the first West Coast plants for many top U.S. manufacturing companies.

Komatsu Dresser has named **David W. Grzelak** vice president sales, and **Karl Hoshino** has been appointed vice president product marketing. Grzelak, who was previously manager, off-highway vehicles for General Electric Company, will be in charge of KDC's sales department. Hoshino's division is responsible for model sales promotion, new product introduction, product development, and sales training.

CONSTRUCTOR REGIONAL ACTION

AGC OF NEW JERSEY recently awarded a \$1,500 scholarship to Philip J. Lindsey, an engineering student at Temple University in Philadelphia. Mr. Lindsey is employed by CUH2A, a multidisciplinary design firm in Princeton. Donald R. Waters, president of AGC of New Jersey and head of Waters & Bugbee Inc. (AGC), Trenton contractors, presented the award to Lindsey.

CAROLINAS AGC INC. has begun a \$1 million addition and renovation to its Charlotte headquarters with completion scheduled for September. The project will double the size of the chapter's plan room, and the largest conference room will accommodate 75 people for on-site workshops and seminars. Carmel Contractors Inc. (AGC) in Charlotte won the competitively bid construction contract for the project.

The **ROCKY MOUNTAIN CENTER FOR OCCUPATIONAL AND ENVIRONMENTAL HEALTH** at the University of Utah has announced upcoming construction industry-related courses to be held in Salt Lake City. They include:

□ Industrial Audiometric Technician's Certification Course, May 29-31. This course is intended for occupational health nurses and physicians, safety professionals, health technicians, and others involved in the performance and interpretation of audiometric testing.

□ Hazardous Materials for the Professional, June 24-28, a comprehensive overview of the field of hazardous materials. For more information, please call (801) 581-5710.

METRIC CONSTRUCTORS INC. (AGC), merit-shop contractors in Charlotte, N.C., were recent winners of the Business Roundtable's Constructor Safety Award. The firm was honored for its commendable safety performance during the past three years for companies having more than 200,000 man hours per year.

The **ARKANSAS CHAPTER** announced that Tommy Bond, president of Bond-

Kinman Limited Inc. (AGC) in Jacksonville, has been elected chapter president for 1991.

Peter H. Benoist, president of Turner Construction Company/Hercules Division (AGC) in Chesterfield, Mo., has been installed as president of **AGC OF ST. LOUIS**. Mr. Benoist is a graduate of Regis College in Denver, Colo., and is active in local and national AGC affairs. He succeeds William H. Kroeger of Kroeger Construction Inc. (AGC) in St. Louis, who will remain on the board of directors.

AGC OF INDIANA INC. installed Harold Force, president of Force Construction Co. Inc. (AGC) in Columbus, as the chapter's new president.

The **GEORGIA INSTITUTE OF TECHNOLOGY** in Atlanta is offering a course entitled "Competent Person Training Program for OSHA's Revised Excavation Standard." Participants will be instructed in soil analysis, the use of protective systems, and the requirements of the OSHA standard. The one-day program is offered on a regular basis in Atlanta and can also be conducted on-site at the location of a company's choice. For more information, please contact Steve Hays at (404) 894-3806.

THE NORTHEASTERN FLORIDA CHAPTER announced the election of Mel Bryan, of The Devcon Group Inc. (AGC) in Jacksonville, as chapter president for 1991.



New officers, AGC of Mississippi Inc.: Seated is Pres. Jim A. Moss, standing from left are 1992 Pres.-elect John H. Nall, V.P. Lake Pennington, and Sec.-Treas. C.E. Frazier.

Dennis D. Doan, chief executive officer and president of Doan Construction Company (AGC National Associate) in Ypsilanti, Mich., has been elected vice president of the **MICHIGAN ROAD BUILDERS ASSOCIATION INC.** He has served as chairman of the chapter's membership committee and as a member of the Specifications and Construction by Contract committee.

THE ARIZONA CHAPTER elected Darrel L. Templeton, executive vice president of Hunter Contracting Co. (AGC) of Gilbert, Ariz., as its 1991 president.

THE NEW YORK STATE CHAPTER INC. recently sponsored its second heavy equipment spring auction, which was expected to be the largest event of its kind ever held in the state. Last year's auction brought in more than \$6 million in bids on a variety of construction materials, tools, and heavy equipment. More than 1,100 registered bidders attended the 1990 event.

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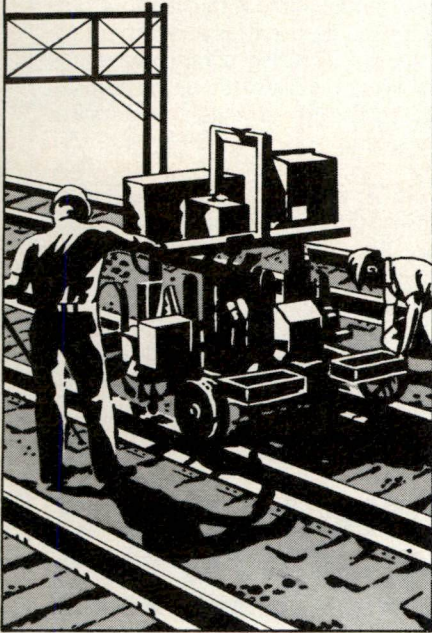
The Florida East Coast Chapter is presenting a one-day symposium entitled "PROJECT PREPAREDNESS: Industry's Role in a Natural Disaster." The program will be held on May 1, 1991, at the Royce Hotel in West Palm Beach, Florida.

Project Preparedness is a program for developing the skill and capabilities of construction contractors in combating natural or man-made disasters.

The speakers for the program include Thomas P. Credle, FEMA; Dr. Robert Sheets, National Hurricane Center; James Seta, U.S. Army Corps of Engineers; Dr. Ron Cook, University of Florida; Michael Slade, Ranger Construction Industries Inc.; and Dr. Raymond MacAllister, Florida Atlantic University.

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CONSTRUCTOR NEW PRODUCTS

TRUCKTECH INC., Wichita, KS, has unveiled the Proc, a new tag axle that offers dump truck operators a significant increase in legal payload without sacrificing the truck's maneuverability. The Proc lengthens the truck's overall wheel base, adds one additional axle, and provides a practical and cost-effective alternative to truck and trailer units at a time when dump truck operators are facing increasingly stringent enforcement of the federal bridge formula. The Proc can be retrofitted to existing dump trucks.
Reader Service #113

McLAUGHLIN MANUFACTURING CO., Greenville, SC, has added an all new micro-computerized cable and pipe locator to its line of trenchless boring systems. The Spot D Tek Utility Location System locates the exact position and depth of metallic cable or pipe on an easy-to-read digital display. Four different methods for locating buried serv-

ice are offered, in addition to the use of a remote probe or micro-transmitter for tracking non-metallic pipe or PVC. McLaughlin was named exclusive U.S. distributor for the product, which is produced by Takachiho Sangyo Co. Ltd. in Tokyo.
Reader Service #114

TOMEN AMERICA INC., Norcross, GA, has announced plans to market a new line of hydraulic excavators in the U.S. under the proposed name TOMEN-SCM. Manufactured by Sumitomo Construction Machinery Company Ltd. in Tokyo, eight models will be offered, ranging in operating weight from 16,000 to 68,000 lbs. The new excavators offer high-tech features such as mode selection, service monitors, and computer-assisted hydraulics.
Reader Service #115

LaBOUNTY MANUFACTURING INC., Two Harbors, MN, has a new line of mobile shears that has been technol-

ogically refined to provide increased performance and extended life. Improvements include higher cutting tonnages, an increased piercing capability, larger jaw openings, and an offset blade apex to draw material to the area of the shear where cutting force is the greatest. The shears can be used for a variety of applications, including scrap processing, demolition, reconstruction, tank dismantling, road reconstruction, and railcar dismantling.
Reader Service #116

TALBERT, Rensselaer, IN, has published a special products brochure that includes more than 30 color photos of the company's engineering achievements such as the first schnabel and the first hydraulic suspension and steering trailer. Exotic load photos of a 610-ton atomic reactor, transformers, and army tanks are also featured.
Reader Service #117



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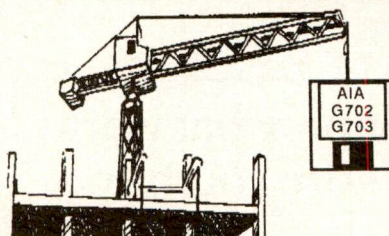
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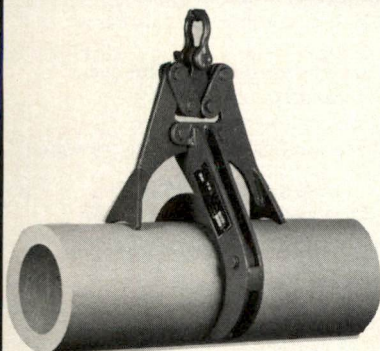
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CONSTRUCTOR/April 1991

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CONSTRUCTION SEMINARS SCHEDULED

The University of Toledo's Division of Continuing Education will present an intensive two-day "Construction Claims" seminar, with an accompanying one-day, follow-up program on "Project Planning and Scheduling."

Dates and locations for the Construction Claims seminar are: May 20-21, Toledo, Ohio; June 5-6, White Plains, N.Y.; June 11-12, Newport Beach, Calif.; June 24-25, Orlando, Fla.

The Project Planning program will be held on May 22 in Toledo, Ohio; June 7 in White Plains, N.Y.; June 13 in Newport Beach, Calif.; and June 26 in Orlando, Fla.

Both sessions begin at 8:30 a.m. and end at 4:30 p.m.

Roy L. Wilson, president of Wilson Management Associates Inc. in Glen Head, N.Y., will present the programs. Fees are \$695 for Construction Claims and \$345 for Project Planning. A workbook, seminar materials, and follow-up consultation are included.

For more information, please contact the Division of Continuing Education at (419) 537-2033.

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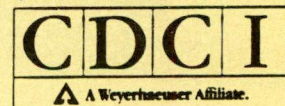
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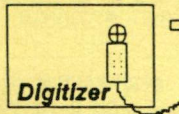


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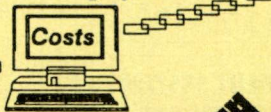
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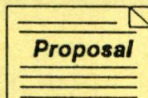
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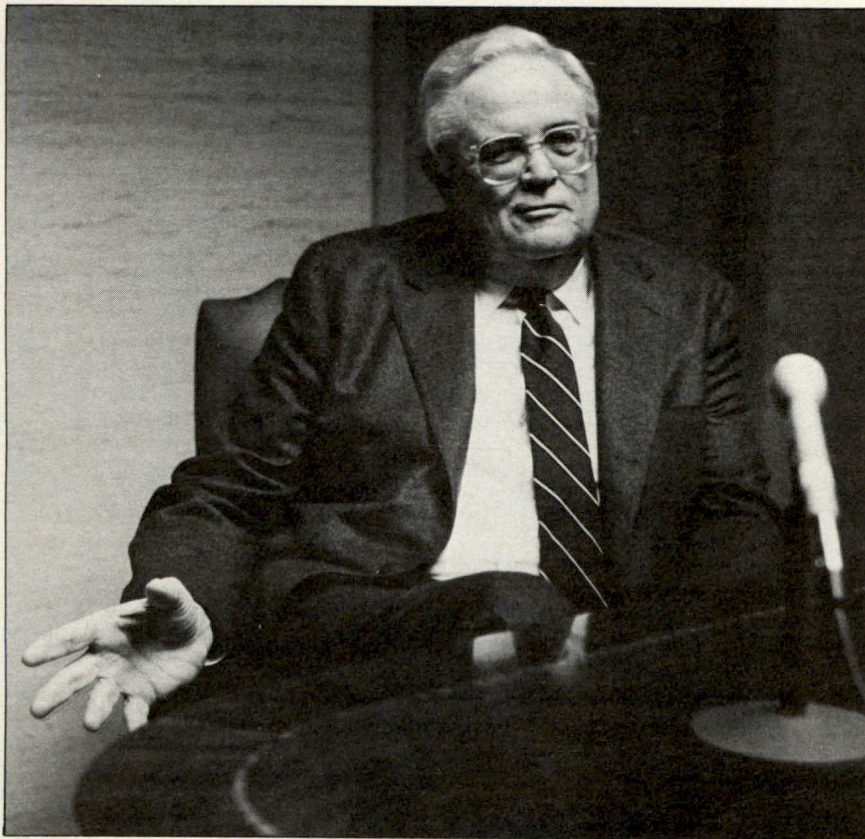
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GUEST EDITORIAL: THE STRIKE BILL

**A DANGEROUS PIECE OF
LEGISLATION WOULD DESTROY
THE BALANCE OF POWER
BETWEEN LABOR
AND MANAGEMENT**



Labor lawyer Robert T. Thompson: The Strike Bill would give enormously expanded powers to unions. It is up to every contractor to inject a dose of reality into the debate.

The AFL-CIO's legislative agenda for the 1990s repackages the goals of failed labor legislation from the 1970s and the 1980s. The "Strike Bill," H.R. 5 and S. 55, combines the union-organizing advantages of the historic "Labor Law Reform" effort with increased union bargaining powers even more pervasive than the "Anti-Dual Shop Legislation."

The legislative fight this year is shaping up to be as grueling as its predecessors, but with a difference. The Strike Bill affects a radical shift in the balance of power between unions and management without many companies yet appreciating its true impact or intent.

The direct effects of the legislation can be summarized fairly succinctly. The bill prohibits employers from hiring permanent replacement workers during "labor disputes" and guarantees reinstatement of workers who walk off their jobs. The Strike Bill also prevents employers from granting preferences, such as promotions and recognition for training, to nonstriking or crossover employees.

There are many unique aspects of the construction industry that make it more susceptible to strikes and to the harmful consequences of the Strike Bill. Labor disputes timed to coincide with a critical period of construction, as when numerous subcontractors are approaching deadlines, exert immeasurable leverage on contractors to settle. The contractor's ability to hire replacement workers to finish the job places appropriate restraint on the economic pressures of organized labor. The Strike Bill would remove this restraint and, as a result, would encourage the use of the strike weapon.

(continued)

Likewise, reserved gates have served well over the years to limit the exposure of contractors to the disputes of others. The Strike Bill would apply to all forms of lawful protest, including sympathy strikes. Whether or not reserved gates were established, contractors would not be able to replace workers induced to stay off the job in sympathy with the primary strikers.

The rapid transition of the construction industry from union to predominately open shop has caused thousands of building trades members to work with "their cards in their shoes." Many contractors have experienced the loss of these employees whenever a picket line is established. The cause is not so much worker sympathy with union demands, as worker fear of being fined for working through a dispute. The fact that a goal of the legislation is to increase the number and power of strikes demonstrates that contractors will have greater difficulty in continuing construction during labor disputes.

Of course, more strikes will encourage more violence, especially in the construction industry where bargaining and organizing demands have historically been backed up not with lawful conduct but with sheer force. The Strike Bill presents yet another instance where labor's supporters in Congress have sought to increase union power but have refused to deal directly with the results of its abuses.

For the unionized sector of the industry, the Strike Bill means an immediate and dramatic shift in the balance of bargaining power. Greater union clout in negotiations would naturally lead to more extreme bargaining demands, backed up by more strikes. For example, an issue vital to many contractors will be a renewed effort to include anti-dual shop clauses in collective bargaining agreements. Under the Strike Bill, unions would be better able to shut down a contractor's operations in support of this bargaining demand. In an ironic twist of logic, unions would, in effect, be granted the power to force through negotiations what they could not achieve through Congress.

Open shop contractors are equally at risk by the legislation. Labor representatives have acknowledged that the bill will make union organizing easier. One of the biggest issues for workers in any organizing drive is what effect a strike will have. Can workers end up out of

work during union-called strikes? Can the unions guarantee jobs following their strike? The answer today is "yes" to the first question and "no" to the second. The Strike Bill reverses those answers as a matter of law.

In addition, the increased bargaining clout that the Strike Bill gives the unions would enhance union organizing. Workers would no longer need to weigh the employer's right to hire permanent replacements before buying into a union's promise of results from a strike action. This would be the one instance under the nation's labor laws when union organizers could back up their promises with a guarantee.

As currently written, the legislation would also have a severe impact on the ability of open shop contractors to discipline employees. The term "labor dispute" used in the bill is exceedingly broad. Two or more workers would be free to walk off the site giving little or no reason except to say that they are protesting terms or conditions of employment. Protests of this nature are relatively infrequent because of the countervailing employer right to hire permanent replacements. Passage of H.R. 5. /S. 55 would eliminate this response and establish a disruptive influence in the nonunion workplace. As a result of the legislation, small groups of workers could walk off their jobs for whatever period of time—an hour, a long weekend, six weeks—and have a right to reinstatement whenever they decide to return to work.

Increasingly hostile labor relations and the greater instances of work stoppages would establish hidden dangers for general contractors and subcontractors alike. Efforts by the general contractors to ensure completion of the work performed by a struck subcontractor could raise charges of joint or single employer status, thus restricting the generals' ability to find replacements. It is extremely likely that a liberal Labor Board could relax the distinction between the separate companies and hold the general contractors liable for completing the job on behalf of the subcontractors.

Subcontractors must be concerned with the more practical and direct consequences of the legislation. A subcontractor suffering a walkout will face the very real possibility of being replaced by another subcontractor that can complete the job. If the subcontractor cannot perform his contract because he can no

longer hire permanent replacements, it is the subcontractor that may be replaced—permanently.

Much of the reasoning behind the Strike Bill is difficult for contractors or other business persons to follow and a review of the positions taken by labor leaders would perhaps be beneficial. It has become a ritual at congressional hearings on the legislation for union witnesses to preface their remarks about a hostile strike with the phrase "after we were forced out on strike ..." or "the employer forced our members to go on strike." Through this reasoning there is no culpability for failing to foresee the results of a strike action. In this scenario, the strike is purely a defensive tactic, not an offensive weapon.

Other witnesses before the House and Senate Labor Committees have unabashedly stated that in their experience unions have never made an unreasonable demand or insisted on a position that was detrimental to the overall health of the company. A prominent union lawyer recently asserted that unions are willing and capable of fairly representing the best interest of replacement workers, even while the strike continues! It is difficult to understand the logic of the bill when the arguments sound so foreign.

Some members of the business community have failed to take the Strike Bill seriously because they cannot imagine Congress taking it seriously. It is cause for great concern that the views expressed above are not limited to leaders of organized labor. Almost half of the members of the House and a third of the Senators have signed on to the legislation as cosponsors. Lane Kirkland, president of the AFL-CIO, recently asserted that the measure will pass the House this summer and Senate action will be completed by the end of the year.

The fights over "Labor Law Reform" and double breasting were won because of the involvement and activism of business people. So far, members of Congress have been hearing that unions strike only in defense, that their demands are always reasonable, and that they have the best interests of replacement workers at heart. It is up to every contractor to inject a dose of reality into the debate.

—By Robert T. Thompson of the law firm Thompson, Mann & Hutson in Washington, D.C.

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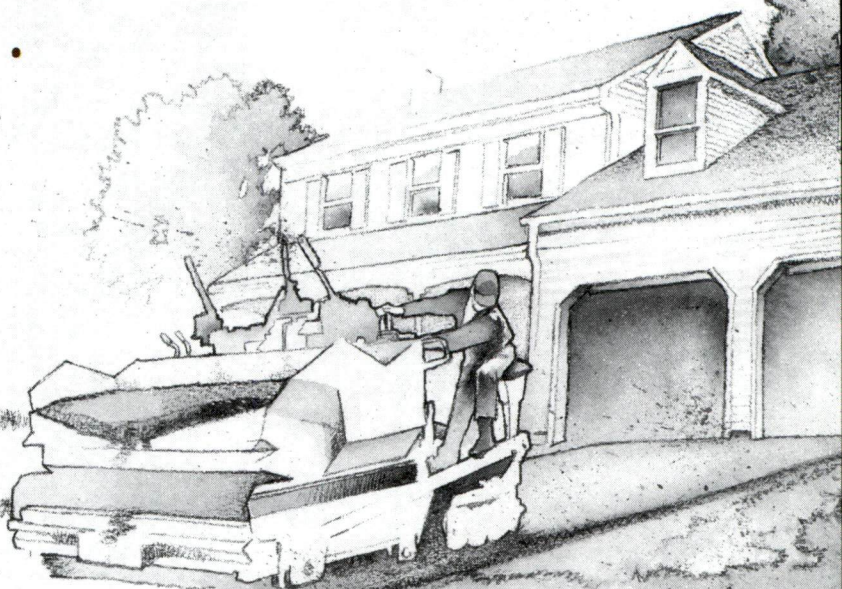
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