

JURISDICTIONAL DISPUTES

INTRODUCTION

The dominant feature of labour relations in the construction industry is *craft unionism*. Construction uses a wide variety of distinct trade skills. Unions and union members define themselves by their particular trade skills. This identification of tradesperson with a craft union is reinforced by the transient nature of construction work, hiring halls, and the training, pension and benefits programs that are typically operated by the union rather than by employers. The [*Labour Relations Code's*](#) scheme of registration bargaining reflects the predominance of craft unionism in the construction industry. Registration certificates are granted for employer bargaining units defined by, among other factors, *trade jurisdiction*. The Board's standard bargaining units in the construction industry are based on the trade skills used by the employee.

Underlying craft unionism in the construction industry is the belief that union members should have a legal claim to the kinds of work for which their training and skills suit them. Unions have a strong incentive to make and enforce claims to "their" work. It ensures availability of work for union members, as well as continuing dues payments to fund the union's activities. Two problems exist. First, employers may be tempted to ignore union claims over certain kinds of work to cut costs or ensure labour peace. Second, many tasks on a construction project do not fall clearly within one trade. The result can be a dispute between two trade unions laying claim to the same work, or a dispute between union and employer over what the union sees as an improper assignment of work by the employer. These are called *jurisdictional disputes*.

This policy discusses jurisdictional disputes, what they are, how they are prevented and how they are resolved. It covers:

- what jurisdictional disputes are;
- the pre-job mark-up meetings;
- the Jurisdictional Assignment Plan;
- statutory adjudication of jurisdictional disputes; and
- arbitration of jurisdictional disputes and the "Green Book".

THE NATURE OF JURISDICTIONAL DISPUTES

A jurisdictional dispute is a three-sided dispute. Usually the principal parties to the dispute are the two unions contending for the work in question. The employer is, however, not always a disinterested observer to the unions' dispute. Sometimes an employer may be seeking to save costs by, for example, assigning work to lower-cost labourers rather than higher-cost carpenters.

THE PRE-JOB MARK-UP MEETING

Prior to the beginning of a job, a mark-up meeting is held to apportion the work to each trade. On a small project, this meeting may be quick and informal. As the complexity of a project increases, so too does the complexity of the mark-up meeting.

ALBERTA'S JURISDICTIONAL ASSIGNMENT PLANS

Alberta's unionized construction industry has developed a Jurisdictional Assignment Plan (JAP). The JAP supplements the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (see below). Its purpose is to prevent and reduce losses, disruption and poor publicity caused by jurisdictional disputes and thereby prevent government intervention.

An administrator for the JAP is appointed by the Joint Administrative Committee and is responsible for all procedural matters. The Committee also establishes an Appeal Board and appoints a number of umpires. Umpires may, upon an application being submitted to the administrator by a union or contractor, decide in an expedited manner all matters relating to jurisdiction of work assignments. Pending an umpire's decision, there shall be no stoppage of work. Any affected party may ask for a reconsideration of the umpire's decision and may also appeal an umpire's decision either to the JAP Appeal Board or the Canadian Plan (see below).

Ministerial order 35/95 created the Construction Industry Jurisdictional Assignment Plan Regulations. This regulation requires all collective agreements in the general construction sector of the construction industry entered into by a participating union to contain provisions regarding the settlement of jurisdictional disputes through the JAP.

STATUTORY ADJUDICATION OF JURISDICTIONAL DISPUTES

Sections 202-206 of the [Labour Relations Code](#) allow the government to establish the Alberta Impartial Jurisdictional Disputes Board to adjudicate jurisdictional disputes. See: [\[Impartial Jurisdictional Disputes Board, Chapter 31\(l\)\]](#). To date the government has been content to allow the unions to work out their own jurisdictional disputes.

ARBITRATION OF JURISDICTIONAL DISPUTES & THE GREEN BOOK

The major Contractor Associations and the Building and Construction Trades Department AFL-CIO and its Canadian successor have established the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry. This system of adjudication includes umpires ruling on jurisdictional matters with reference to the Green Book.